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Regulations

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation

PART 411—1942 COTTON CROP INSURANCE REGULATIONS

REFUNDS OF EXCESS PAYMENTS

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved Febuary 16, 1938, as amended, the 1942 Cotton Crop Insurance Regulations[1] are amended as follows:

Section 411.27 of said regulations is amended to read as follows:

§ 411.27 *Refunds of excess payments.* (a) No refund of any payment on a note for payment of a premium shall be acted upon by the Corporation until the acreage planted to cotton on all the insurance units covered by the insurance contract has been determined. Nothing in this section shall be construed to restrict the Corporation's right to refund any premium at such earlier date as it may determine.

(1) The cash equivalent of any refund of premium shall be determined by multiplying the amount to be refunded, in terms of pounds of lint cotton of the grade and staple constituting the premium for the insurance contract with respect to which the payment was made, by the cash equivalent price per pound applicable for the day the payment was tendered: *Provided, however,* That if payments on the note for the insurance contract are made on more than one day such payments shall be applied in the order in which tendered and the refund shall be made from the payments tendered, starting with the last, any portion of which was not used in payment of the note, and each such payment or portion thereof not so used shall be considered as a separate payment in the application of the foregoing formula for determining the amount of such refund.

[1] 6 F.R. 6442; 7 F.R. 1729, 4471, 7874, 9629; 8 F.R. 1301.

(2) No refund shall be made except upon receipt of a written request unless the cash equivalent of such refund is one dollar or more.

(b) *Refund of excess payments received after maturity of note.* Payments received after the maturity date for the note shall be refunded in the actual amount of money paid to the Corporation in excess of that determined to be necessary to pay such note: *Provided, however,* That no refund of less than one dollar shall be made unless a written request for such refund is received.

(Amendment to § 411.27 issued under secs. 506 (e), 507 (c), 508, 509, 516 (b); 52 Stat. 73, 74, 75, 77; 7 U.S.C. 1940 ed., 1506 (e), 1507 (c), 1508, 1509, 1516 (b), as amended by 55 Stat. 255)

Adopted by the Board of Directors on December 22, 1942.

[SEAL] M. CLIFFORD TOWNSEND,
Chairman.

Approved: February 15, 1943.

GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 43-2541; Filed, February 16, 1943; 11:13 a. m.]

Chapter XI—Food Distribution Administration

[Food Distribution Order 21]

PART 1415—IMPORTED FOODS

DISTRIBUTION OF TEA FOR CIVILIAN CONSUMPTION

Pursuant to the authority vested in me by Executive Order No. 9280, issued December 5, 1942, and in order to assure an adequate supply and efficient distribution of tea to meet war and essential civilian needs, *It is hereby ordered,* As follows:

§ 1415.1 *Distribution of tea for civilian consumption*—(a) *Definition.* For the purpose of this order:

(1) "Person" shall include any individual, partnership, corporation, or any organized group of persons, whether incorporated or not.

(2) "Commodity" shall mean the Commodity Credit Corporation.

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FEDERAL REGISTER

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(3) "Tea" shall mean tea owned by Commodity and made available for civilian consumption, except as otherwise indicated by the contract.

(4) "Packer" shall mean any person who packs tea owned by him or who has tea owned by him packed for his account by some other person.

(5) "Director" shall mean the Director of Food Distribution, United States Department of Agriculture.

(6) "Qualified distributor" shall mean any person designated as a qualified distributor in accordance with paragraph (c) hereof.

(7) "Type" shall mean the quality, grade and sortation of tea.

(b) *Purchases of tea.* Subject to the provisions of this order, only qualified distributors shall be eligible to purchase tea from Commodity. Such purchases shall be made only on orders approved by the Director as to quantities and types of tea. The total quantity which any qualified distributor shall be eligible to purchase shall not exceed a portion of the available supply of tea determined by the Director as nearly as may be practicable on the basis of the ratio of his annual imports of tea for the years 1940 and 1941 to the average annual total imports of tea of all qualified distributors for the years 1940 and 1941.

(c) *Qualified distributors.* (1) The Director shall designate as qualified distributors tea importers who have indicated a willingness to act as such, and who are, in the judgment of the Director, by reason of their experience, facilities and personnel, able efficiently to distribute tea to packers and otherwise to discharge the functions and duties which they may be called upon to perform under this order.

(2) Any importer of tea not designated as a qualified distributor, who believes that he is qualified to act as such, may appeal to the Director within 15 days after publication of the list of qualified distributors. On such appeal he shall set forth the pertinent facts and the reasons he considers he is entitled to be designated as a qualified distributor. The Director may thereupon take such action as he deems appropriate. If, on appeal, the Director designates any tea importer as a qualified distributor, such designation shall not affect sales made to other qualified distributors prior to such designation.

(3) The Director may terminate the status of a qualified distributor who fails to enter into the contract offered by Commodity for the purchase of tea and the performance of services incident to the importation and handling of tea, or who upon entering into such contract fails to comply therewith, or who violates any provision of this order or Food Distribution Order No. 18 or any Director Food Distribution Orders supplementary thereto.

(4) A qualified distributor may terminate his status as a qualified distributor upon giving the Director at least 30 days' written notice. Such termination shall not affect any existing contractual relationship with Commodity.

(d) *Tea Distribution Committee.* There shall be established a Tea Distribution Committee. The members of the committee shall be chosen by the Director from among those persons who, in the judgment of the Director, are, by reason of their experience and knowledge of the tea industry, qualified to serve as members of the committee.

(e) *Distribution of tea.* (1) The qualified distributors shall receive orders for tea from packers, file copies of packers' orders with the Director, and fill packers' orders in accordance with the determinations of the Director and in accordance with Food Distribution Order No. 18 or any Director Food Distribution Orders supplementary thereto.

(2) After consulting with the members of the Tea Distribution Committee, the Director shall, within the limits of the

respective quantities of tea which qualified distributors are eligible to purchase hereunder and packers quotas established under Food Distribution Order No. 18, make allocations to qualified distributors and packers of the types of tea available so as to meet, as nearly as may be possible, the requirements of packers' orders received by qualified distributors, and shall approve or, if necessary, modify and approve distributors' orders of tea from Commodity in accordance with such allocations.

(f) *Records and reports.* All qualified distributors shall maintain such records for such periods of time, and shall execute and file such reports and submit such information, as the Director may from time to time request or direct, and within such times as he may prescribe.

(g) *Audits and inspections.* Every qualified distributor shall permit inspection during reasonable business hours of his books, records, and accounts by the Director.

(h) *Appeals.* Except as provided by paragraph (c) (2) hereof, any person affected by this order, who considers that compliance herewith would work an exceptional and undue hardship on him, may appeal to the Director, setting forth all pertinent facts in justification of such appeal, together with the statement of the nature of the relief requested. The Director may, upon the basis of such appeal and other information, take such action as he deems appropriate.

(i) *Violations.* Any person who wilfully violates any provision of this order or, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and, upon conviction, may be punished by fine or imprisonment. In addition, any person who, in the judgment of the Director, is found to have violated any of the terms or provisions of this order, may be prohibited from making or obtaining further deliveries of tea, or from processing or using material under priority control and may be deprived of priorities assistance.

(j) *Communications.* All reports required to be filed hereunder and all communications concernings this order, shall, unless otherwise directed, be addressed to: Director of Food Distribution, United States Department of Agriculture, Washington, D. C. Ref. FD–21.

(k) *Delegation of authority.* The Director may delegate any or all of the powers and authorities herein conferred upon the Director to such person or persons as he may designate.

(l) *Effective date.* This order shall become effective immediately.

(E.O. 9280, 7 F.R. 10179)

Issued this 15th day of February, 1943.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43–2514; Filed, February 15, 1943; 4:34 p. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess-Profits Taxes

[T. D. 5228]

PART 19—INCOME TAX UNDER INTERNAL REVENUE CODE

DISTRIBUTION BY PERSONAL HOLDING COMPANIES

Regulations 103, 101 and 94 amended to conform to sections 181, 182, 183, 184, 185, 186 and 132 (d) (e) of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, relating to personal holding companies.

Regulations 103

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to sections 181, 182, 183, 184, 185, 186, and 132 (d) (e) of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 19.28 (d)–1 the following:

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

* * * * *

(e) *Consent dividends.* (1) Section 28 (d) (1) of the Internal Revenue Code and section 28 (d) (1) of the Revenue Act of 1938 are amended to read as follows:

(1) Unless it files (in accordance with regulations prescribed by the Commissioner with the approval of the Secretary) with its return for such year, or within one year after the date of enactment of the Revenue Act of 1942, in the case of a corporation which is a personal holding company for the taxable year with respect to which it claims the benefits of this section, signed consents made under oath by persons who were shareholders, on the last day of the taxable year, of the corporation, of any class of consent stock; and

* * * * *

(f) *Effective date of amendments.* The amendments made by subsections (a) to (e), inclusive, shall be effective as of the date of enactment of the laws amended thereby.

* * * * *

(h) *Overpayments and deficiencies.* If the refund or credit of any overpayment for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section is prevented on the date of the enactment of this Act or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected if claim therefor is filed within one year from the date of the enactment of this Act. If the assessment or collection of any deficiency for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section, is prevented on the date of the filing of the shareholders' consents referred to in subsection (e) or on the date of filing of the claim referred to in subsection (g) (1) or within one year from the date of filing of such consents or claim, as the case may be, then, notwithstanding any other provision of law or rule of law, such deficiency shall be assessed and collected if assessment is made within one year from the date of the filing of such consents or claim, as the case may be. The failure of a shareholder to include in his gross income for the proper taxable year the amount specified in the consent made by him referred to in subsection (g) (2) shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) of the applicable revenue law with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

PAR. 2. Section 19.28 (d)–1 is amended as follows:

(A) By changing the period at the end of the first sentence of the second paragraph to a comma, and inserting the following:

see § 19.53–4, or such consent may be made at any time not later than one year after October 21, 1942, if the corporation was a personal holding company for the taxable year for which the credit is claimed.

(B) By inserting immediately after the second comma in the third sentence of the second paragraph the following:

or in the case of a personal holding company referred to in section 28 (d) (1), within one year after October 21, 1942,

(C) By inserting immediately after "Form 973" appearing in the third sentence of the second paragraph the following:

or Form 973A, in the case of a personal holding company,

PAR. 3. There is inserted immediately after § 19.28 (d)–2, a new section as follows:

§ 19.28 (d)–3 *Overpayments and deficiencies.* For the refund or credit of any overpayment, and the assessment or collection of any deficiency referred to in section 186 (h) of the Revenue Act of 1942, see § 19.504–6.

PAR. 4. There is inserted immediately preceding § 19.115–1 the following:

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

(a) *Definition of dividend.* (1) *Amendment to Internal Revenue Code.* Section 115 (a) of the Internal Revenue Code (relating to definition of dividend) is amended by inserting at the end thereof the following new sentence: "Such term also means any distribution to its shareholders, whether in money or in other property, made by a corporation which, under the law applicable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which the distribution is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, is a personal holding company under the law applicable to such taxable year."

* * * * *

(b) *Personal holding company dividends not applied in reduction of basis.* Section 115 (b) (relating to source of distributions) of the Internal Revenue Code, the Revenue Act of 1938, and the Revenue Act of 1936, are amended by inserting at the end of such sub-

section the following new sentence: "The preceding sentence shall not apply to a distribution which is a dividend within the meaning of the last sentence of subsection (a)."

* * * * *

(f) *Effective date of amendments.* The amendments made subsections (a) to (e), inclusive, shall be effective as of the date of enactment of the laws amended thereby.

* * * * *

PAR. 5. Section 19.115–1 is amended by inserting immediately after the first full paragraph thereof the following new paragraph:

The term "dividend" also includes any distribution to shareholders (other than distributions under section 115 (c), relating to distributions in liquidation, section 115 (e), relating to distributions by personal service corporations, and section 115 (f), relating to stock dividends) made by a corporation which, for the taxable year in which such a distribution is made or for the taxable year in respect of which it is made under section 504 (c), relating to dividends paid within 2½ months after the close of the taxable year, or section 506, relating to deficiency dividends, or corresponding provisions of a prior income tax law, was under the applicable law a personal holding company. Such a distribution, if made on or after October 21, 1942, will constitute a taxable dividend even if not paid out of accumulated or current earnings or profits. For treatment of any distribution made prior to October 21, 1942, which is a dividend solely by reason of the last sentence of section 115 (a), see § 19.504–3.

PAR. 6 There is inserted immediately preceding § 19.500–1 the following:

SEC. 181. RATES OF PERSONAL HOLDING COMPANY TAX. (Revenue Act of 1942, Title I.)

The rate schedule of section 500 (relating to tax on personal holding companies) is amended to read as follows:

(1) 75 per centum of the amount thereof not in excess of $2,000; plus

(2) 85 per centum of the amount thereof in excess of $2,000.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 7. Section 19.500–1, as amended by Treasury Decision 5086, approved October 10, 1941, is further amended as follows:

(A) By inserting in the last sentence of the first paragraph immediately after the first comma the following: "and before January 1, 1942,".

(B) By inserting at the end of the first paragraph the following:

For taxable years beginning after December 31, 1941, the rate of tax is 75 percent of the undistributed subchapter A net income not in excess of $2,000, and 85 percent of the undistributed subchapter A net income in excess of $2,000. For the alternative tax where the net long-term gain for any taxable year exceeds the net short-term capital loss, see section 117 (c) and the regulations thereunder.

PAR. 8. There is inserted immediately preceding § 19.501–1 the following:

SEC. 182. EXEMPTION OF CERTAIN CORPORATIONS FROM PERSONAL HOLDING COMPANY TAX. (Revenue Act of 1942, Title I.)

(a) *Exemption of certain loan and investment corporations.* Section 501 (b) (relating to exemptions from personal holding company tax) is amended to read as follows:

(b) *Exceptions.* The term "personal holding company" does not include:

(1) A corporation exempt from taxation under section 101.

(2) A bank as defined in section 104.

(3) A life insurance company.

(4) A surety company.

(5) A foreign personal holding company as defined in section 331.

(6) A licensed personal finance company under State supervision, at least 80 per centum of the gross income of which is lawful interest received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed $300 in principal amount, if such interest is not payable in advance or compounded and is computed only on unpaid balances.

(7) A loan or investment corporation, a substantial part of the business of which consists of receiving funds not subject to check and evidenced by installment or fully paid certificates of indebtedness or investment, and making loans and discounts, and the loans to a person who is a shareholder in such corporation during such taxable year by or for whom 10 per centum or more in value of its outstanding stock is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 503 (a) (2)) outstanding at any time during such year do not exceed $5,000 in principal amount.

(b) *Taxable years to which amendment applicable.* The amendment made by this section shall be applicable to taxable years beginning after December 31, 1941, except that if a taxpayer, within the time and in the manner and subject to such regulations as the Commissioner with the approval of the Secretary prescribes, elects to have such amendments apply retroactively to all taxable years of the taxpayer beginning after December 31, 1938, and not beginning after December 31, 1941, such amendments shall be applicable to such taxable years.

SEC. 183. CONSOLIDATED INCOME. (Revenue Act of 1942, Title I.)

Section 501 (c) is amended by inserting at the end thereof the following: "The preceding sentence shall apply only if the common parent corporation is a common parent of an affiliated group of railroad corporations which would be eligible to file consolidated returns under section 141 prior to its amendment by the Revenue Act of 1942.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 9. Section 19.501–1 is amended by inserting after the first paragraph thereof the following paragraph:

For taxable years beginning after December 31, 1941 a loan or investment corporation, as defined in section 501 (b) (7), is not taxable as a personal holding company. If, for any prior taxable year (or years) beginning after December 31, 1938 and before January 1, 1942, such a corporation classifies as a personal holding company under section 501 (a), it is not subject to the surtax imposed by section 500 for such taxable year (or years) if it elects, within one year after October 21, 1942, not to be so taxed. The election can be made only by the filing of a notice in writing with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, within such one-year period, requesting that the exemption granted by section 501 (b), as amended, be applied to all such prior taxable year (or years) with respect to which the corporation was otherwise subject to surtax as a personal holding company.

PAR. 10. There is inserted immediately preceding § 19.504–1 the following:

SEC. 132. COMPUTATION OF NET OPERATING LOSS CREDIT AND DIVIDENDS PAID CREDIT. (Revenue Act of 1942, Title I.)

* * * * *

(d) *Technical amendment.* Section 504 (a) (relating to definition of undistributed Subchapter A net income) is amended by striking out ", and, in the computation of the dividend carry-over for the purposes of this subchapter, the term 'adjusted net income' as used in section 27 (c) means the adjusted net income minus the deduction allowed for Federal taxes under section 505 (a) (1)".

(e) *Years to which amendments applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1939, but shall be applicable in the computations with respect to previous taxable years for the purpose of ascertaining the amount of any dividend carry-over from such previous taxable years.

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Dividends paid after close of taxable year.* Section 504 (c) of the Internal Revenue Code and section 405 (c) of the Revenue Act of 1938 (relating to credit for dividends paid after close of taxable year) are amended as follows:

(1) By amending subsection (c) (1) and (2) to read as follows:

(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends would have been includible in the computation of the basic surtax credit for the taxable year if distributed during such taxable year; but the amount allowed under this subsection shall not exceed either:

(1) The undistributed Subchapter A net income for the taxable year computed without regard to this subsection; or;

(2) And by striking out (3) and inserting in lieu thereof (2).

* * * * *

(f) *Effective date of amendments.* The amendments made by subsections (a) to (e), inclusive, shall be effective as of the date of enactment of the laws amended thereby.

(g) *Retroactive application.* The amendments made by subsections (a) to (d), inclusive, shall not apply with respect to any distribution, which is a dividend solely by reason of the last sentence of section 115 (a) of the applicable revenue law, made prior to the date of enactment of this Act by a corporation which, under the law applcable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which it is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, is a personal holding company under the law applicable to such taxable year, unless:

(1) The corporation (under regulations prescribed by the Commissioner with the approval of the Secretary) files, within one year after the date of the enactment of this Act, a claim for the benefit of this section on account of such distribution;

(2) Such claim is accompanied by signed consents made under oath by each person to whom the corporation made such distribution agreeing to the inclusion of the amount of such distribution to him in his gross income as a taxable dividend. If any such person is no longer in existence or is under disability then the consent may be made by his legal representative; and

(3) Each such consent filed is accompanied by cash, or such other medium of payment as the Commissioner may by regulations authorize, in an amount equal to the amount that would be required by section 143 (b) or 144 of the applicable revenue law to be deducted and withheld by the corporation if the amount of the distribution to the shareholder had been paid to the shareholder in cash as a dividend. The amount accompanying such consent shall be credited against the tax under the applicable revenue law imposed by section 211 (a) or 231 (a) upon the shareholder.

(h) *Overpayments and deficiencies.* If the refund or credit of any overpayment for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section is prevented on the date of the enactment of this Act or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected if claim therefor is filed within one year from the date of the enactment of this Act. If the assessment or collection of any deficiency for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section, is prevented on the date of the filing of the shareholders' consents referred to in subsection (e) or on the date of filing of the claim referred to in subsection (g) (1) or within one year from the date of filing of such consents or claim, as the case may be, then, notwithstanding any other provision of law or rule of law, such deficiency shall be assessed and collected if assessment is made within one year from the date of the filing of such consents or claim, as the case may be. The failure of a shareholder to include in his gross income for the proper taxable year the amount specified in the consent made by him referred to in subsection (g) (2) shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) of the applicable revenue law with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

* * * * *

SEC. 184. COMPUTATION OF UNDISTRIBUTED SUBCHAPTER A NET INCOME. (Revenue Act of 1942, Title I.)

(a) Section 504 (relating to deductions from subchapter A net income) is amended by adding at the end thereof the following:

(d) Amounts distributed before January 1, 1944, in redemption of preferred stock outstanding before January 1, 1934 (including any preferred stock issued after January 1, 1934, in lieu of such previously outstanding preferred stock) if such distributions are made by a corporation the aggregate of whose gross sales and gross receipts arising from manufacturing, commercial, processing and service operations during the four-year period immediately before January 1, 1934, exceeded the aggregate of its gross receipts from dividends, interest, royalties, annuities, and gains from the sale or exchange of stock or securities during such period.

(b) The amendment made by this section shall be applicable to taxable years beginning after December 31, 1940.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable to taxable years beginning after December 31, 1941.

PAR. 11. Section 19.504–1, as amended by Treasury Decision 5052, approved June 10, 1942, is further amended as follows:

(A) By striking out "and" after the parenthetical expression "see § 19.504–2" and inserting in lieu thereof a comma.

(B) By striking out the period at the end of the first sentence and inserting in lieu thereof the following:

and, (D) amounts distributed in redemption of preferred stock outstanding prior to January 1, 1934 (including preferred stock subsequently issued in lieu thereof), but only if such distributions are made before January 1, 1944, for taxable years beginning after December 31, 1940, by a corporation specified in section 504 (d).

(C) By striking out the last sentence and inserting in lieu thereof the following:

In computing the dividend carry-over for the purposes of subchapter A of chapter 2, for taxable years beginning after December 31, 1938 and prior to January 1, 1940, the term "adjusted net income" as used in section 27 (c), prior to its amendment by the Revenue Act of 1942, means the adjusted net income minus the deductions allowed under section 505 (a) (1) for Federal taxes.

PAR. 12. There is inserted immediately after § 19.504–2 the following:

§ 19.504–3 *Retroactive application.* If any distribution, which is a dividend solely by reason of the last sentence of section 115 (a), as amended, was made prior to October 21, 1942, by a corporation which, under the revenue law applicable to the taxable year in which the distribution was made, was a personal holding company, or which, for the taxable year in respect of which it is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, was a personal holding company under the law applicable to such taxable year, the corporation is entitled to a dividends paid credit for any taxable year in which, or with respect to which the distribution was made: *Provided:*

(1) The corporation files with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Records Division, within one year after October 21, 1942, a claim for the benefit of section 186 of the Revenue Act of 1942, on account of any distribution, which is a dividend by reason of the last sentence in section 115 (a), as amended, made before October 21, 1942;

(2) Such claim is accompanied by signed consents made on oath or affirmation on Form 972, as provided in § 19.504–5, by each shareholder to whom the corporation made such distribution agreement to the inclusion of the amount of such distribution as a taxable dvidiend in his gross income for the taxable year in which it is made; and

(3) Each such consent filed is accompanied by payment of an amount equal to that which would be required by section 143 (b) or 144 of the applicable revenue law to be deducted and withheld by the corporation if the amount of the distribution to the shareholder had been paid to the shareholder in cash as a dividend.

§ 19.504–4 *Claim for benefit of section 186 of the Revenue Act of 1942*—(a) *General.* A claim for the benefit of section 186 of the Revenue Act of 1942 must be filed within one year after October 21, 1942, claiming credit for any distribution, which is a dividend solely by reason of the last sentence of section 115 (a), as amended.

(b) *Form of claim.* The claim for such credit shall be made in duplicate, under oath or affirmation, on Form 973B, copies of which, upon request, may be procured from any collector.

(c) *Contents of claim.* The claim shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) Taxable year or years for which the benefit of a credit is claimed;

(3) Amount of distribution which is a dividend solely by reason of the last sentence of section 115 (a) as amended by the Revenue Act of 1942, and date of payment thereof;

(4) Amount of distribution previously allowed, if any, as a dividends paid credit, and amount of distribution previously disallowed as a dividends paid credit and for which signed consents accompany the claim;

(5) Whether the corporation was a personal holding company under the law applicable to the taxable year in which the distribution was made or for the taxable year in respect of which it was made under sections 504 (c) or 506 or a corresponding provision of a prior income tax law;

(6) Amount of tax to be eliminated, refunded or credited; and

(7) Such other information as may be required by the claim form.

§ 19.504–5 *Making and filing of consents.* A consent shall be made in duplicate on oath or affirmation on Form 972 in accordance with these regulations and the instructions on the form or issued therewith and may be made only by or on behalf of the shareholder to whom the corporation made the distribution. In the consent it must be agreed that such distribution shall be included as a taxable dividend in the gross income for the taxable year in which the distribution is made.

A consent may be made at any time not later than one year after October 21, 1942. Within such time the corporation must file two duly executed duplicate originals of each consenting shareholder's consent, and a return on oath or affirmation on Form 973B, showing the class and number of shares of each class held at date of dividend payment, amount previously considered taxable, amount previously considered nontaxable, and all other information required by the form.

In the event that any consent filed by the corporation is made by a shareholder from whom, if the amount of the distribution had been paid in cash as a dividend, the corporation would have been required to deduct and withhold any amount as a tax under section 143 (b) or 144, such consent, when filed by the corporation, must be accompanied by payment of the amount which would have been required to be deducted and withheld if the amount of the distribution had been paid in cash as a dividend. Such payment must be in one of the following forms:

(a) Cash;

(b) United States postal money order;

(c) Certified check drawn on a domestic bank, provided that the law of the place where the bank is located does not permit the certification to be rescinded prior to presentation;

(d) A cashier's check of a domestic bank; or

(e) A draft on a domestic bank or a foreign bank maintaining a United States agency or branch and payable in United States funds.

The amount of such payment shall be credited against the tax imposed by section 211 (a) or 231 (a) upon the shareholder.

§ 19.504–6 *Overpayments and deficiencies*—(a) *Overpayments.* If, as a result of the application of section 186 of the Revenue Act of 1942, any overpayment is established or determined with respect to the personal holding company tax for any year and a claim is filed within one year after October 21, 1942, for the credit or refund of such overpayment, and if, on October 21, 1942 or within one year thereafter, such credit or refund would otherwise be prevented, then notwithstanding any other provision of law or rule of law (other than section 186 (h) of the Revenue Act of 1942, and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected.

(b) *Deficiencies.* If, as a result of the application of section 186 of the Revenue Act of 1942, a deficiency is established or determined with respect to the personal holding company tax for any year, and if, on the date of the filing of the consents referred to in subsection (e) of that section, or on the date of filing of the claim referred to in subsection (g) (1) of that section, or within one year from the date of filing such consents or claim, as the case may be, the assessment or collection of such deficiency is prevented, then, notwithstanding any other provision of law or rule of law, the deficiency shall be assessed and collected if assessment is made within one year from the filing of such consents or claim, as the case may be.

(c) *Amounts not included in shareholder's return.* If a shareholder fails to include in his gross income for the proper taxable year the amount specified in section 186 (g) (2) of the Revenue Act of 1942, such failure shall have the same effect with respect to the deficiency resulting therefrom, as is provided in section 272 (f) of the Internal Revenue Code with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

PAR. 13. There is inserted immediately preceding § 19.506–1 the following:

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

* * * * *

(d) *Deficiency dividends.*

(1) *Amendment of Internal Revenue Code.* The first sentence of section 506 (c) (1) is amended to read as follows: "For the purposes of this subchapter, the term 'deficiency dividends' means the amount of the dividends paid, on or after the date of the closing agreement or on or after the date the decision of the Board or the judgment becomes final, as the case may be, and prior to filing claim under subsection (d), which would have been includible in the computation of the basic surtax credit for the taxable year with respect to which the deficiency was asserted if distributed during such taxable year."

* * * * *

(f) *Effective date of amendments.* The amendments made by subsections (a) to (e), inclusive, shall be effective as of the date of enactment of the laws amended thereby.

(g) *Retroactive application.* The amendments made by subsections (a) to (d), inclusive, shall not apply with respect to any distribution, which is a dividend solely by reason of the last sentence of section 115 (a) of the applicable revenue law, made prior to the date of enactment of this Act by a corporation which, under the law applicable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which it is made under section 504 (c) or section 506 or a corresponding provision of a prior income tax law, is a personal holding company under the law applicable to such taxable year, unless:

(1) The corporation (under regulations prescribed by the Commissioner with the approval of the Secretary) files, within one year after the date of the enactment of this Act, a claim for the benefit of this section on account of such distribution;

(2) Such claim is accompanied by signed consents made under oath by each person to whom the corporation made such distribution agreeing to the inclusion of the amount of such distribution to him in his gross income as a taxable dividend. If any such person is no longer in existence or is under disability then the consent may be made by his legal representative; and

(3) Each such consent filed is accompanied by cash, or such other medium of payment as the Commissioner may by regulations authorize, in an amount equal to the amount that would be required by section 143 (b) or 144 of the applicable revenue law to be deducted and withheld by the corporation if the amount of the distribution to the shareholder had been paid to the shareholder in cash as a dividend. The amount accompanying such consent shall be credited against the tax under the applicable revenue law imposed by section 211 (a) or 231 (a) upon the shareholder.

(h) *Overpayments and deficiencies.* If the refund or credit of any overpayment for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section is prevented on the date of the enactment of this Act or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an income tax erroneously collected if claim therefor is filed within one year from the date of the enactment of this Act. If the assessment or collection of any deficiency for any taxable year, to the extent resulting from the application of subsections (e) and (g) of this section, is prevented on the date of the filing of the shareholders' consents referred to in subsection (e) or on the date of filing of the claim referred to in subsection (g) (1) or within one year from the date of filing of such consents or claim, as the case may be, then, notwithstanding any other provision of law or rule of law, such deficiency shall be assessed and collected if assessment is made within one year from the date of the filing of such consents or claim, as the case may be. The failure of a shareholder to include in his gross income for the proper taxable year the amount specified in the consent made by him referred to in subsection (g) (2) shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) of the applicable revenue law with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

SEC. 135. DEFICIENCY DIVIDENDS OF PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

Section 506 (relating to credits and refunds in case of deficiency dividends) is amended by inserting at the end thereof the following new subsections:

(g) *Rate for taxable years 1939, 1940, and 1941.* If the deficiency is established or determined for a taxable year which begins after December 31, 1939, and does not begin after December 31, 1941, the rates under subsections (a) and (b) used in determining the amount of the credit or refund shall be 71½ per centum in lieu of 65 per centum and 82½ per centum in lieu of 75 per centum.

(h) *Rate for taxable years after 1941.* If the deficiency is established or determined for a taxable year which begins after December 31, 1941, the rates under subsections (a) and (b) used in determining the amount of the credit or refund shall be 75 per centum in lieu of 65 per centum and 85 per centum in lieu of 75 per centum.

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

* * * * *

(i) *Additional credit or refund for prior years.* Section 506 of the Internal Revenue Code (relating to deficiency dividends) is amended by adding at the end thereof the following new subsection:

(j) *Additional credit or refund for prior taxable year—*

(1) *Election to have a certain dividend considered as a deficiency dividend.* If a corporation was a personal holding company for any taxable year beginning after December 31, 1936, and prior to January 1, 1942, and its adjusted net income, Title 1A net income or Subchapter A net income, in the case of

a tax imposed by Titles 1A of the Revenue Acts of 1936 and 1938, or Subchapter A of the Internal Revenue Code, as the case may be, exceeds the sum of (A) the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year and (B) the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year) and if prior to the date of enactment of the Revenue Act of 1942, the corporation paid all or any portion of the tax imposed by Title 1A or Subchapter A for any such taxable year or years then the corporation may elect, within six months after the date of enactment of the Revenue Act of 1942 to have the amount of a dividend paid within such six-month period considered as a deficiency dividend. Such election must be made by the filing of a claim (under regulations prescribed by the Commissioner with the approval of the Secretary) within such six-month period and after the payment of the dividend, specifying the taxable year or years with respect to which such dividend applies, setting forth the amount of the dividend to be apportioned to each taxable year, and claiming the benefit of this subsection by reason of such dividend.

(2) *Effect of election.* If the corporation exercises the election authorized under paragraph (1) of this subsection—

(A) The credit or refund shall be computed, and credited or refunded without interest, as provided in subsection (b) and at the rates provided therein or in subsection (g), as the case may be, but shall be subject to the limitations in subsection (f). In any case where a dividend is apportioned to more than one taxable year the credit or refund shall be determined for each taxable year on the basis of the amount of the dividend apportioned thereto; and

(B) The dividends paid credit for the taxable year in which paid and for a prior taxable year or years shall be determined as provided in subsection (c) (2).

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 14. Section 19.506-3 is amended by inserting after "$2,000" where it appears the second time in the second sentence of the first paragraph, the following:

except that if the deficiency is established or determined for a taxable year beginning after December 31, 1939 and before January 1, 1942, the rates for determining the amount of the credit are 71½ percent in lieu of 65 percent and 82½ percent in lieu of 75 percent, and except further that if the deficiency is established or determined for a taxable year beginning after December 31, 1941, the rates for determining the amount of the credit are 75 percent in lieu of 65 percent and 85 percent in lieu of 75 percent.

PAR. 15. Section 19.506-4 is amended by inserting after "$2,000" where it appears the second time in the second sentence of the first paragraph, the following:

except that if the deficiency is established or determined for a taxable year beginning after December 31, 1939 and before January 1, 1942, the rates for determining the amount of the credit or refund are 71½ percent in lieu of 65 percent and 82½ percent in lieu of 75 percent, and except further that if the deficiency is established or determined for a taxable year beginning after December 31, 1941, the rates for determining the amount of the credit or refund are 75 percent in lieu of 65 percent and 85 percent in lieu of 75 percent.

PAR. 16. There is inserted immediately after §19.506-7 the following:

§ 19.506-8 *Retroactive application.* For regulations relating to making and filing of the claims and consents referred to in subsections (d) (1) and (g) of section 186 of the Revenue Act of 1942, see §§ 19.504-3, 19.504-4 and 19.504-5.

§ 19.506-9 *Overpayments and deficiencies.* For the refund or credit of any overpayment, and the assessment or collection of any deficiency referred to in section 186 (h) of the Revenue Act of 1942, see § 19.504-6.

§ 19.506-10 *Election to have a certain dividend considered as a deficiency dividend.* Section 506 (j) is designed to be used particularly in those cases where a corporation was a personal holding company for certain taxable years beginning prior to January 1, 1942, and the personal holding company tax has been paid in whole or in part prior to October 21, 1942 for such taxable years. In such a case the corporation may elect to have the amount of a dividend paid within six months after October 21, 1942, to shareholders to whom the distribution is made, considered as a deficiency dividend under the following conditions, qualifications and limitations:

(1) It must be established by the corporation that its income, upon which the personal holding company tax is imposed, exceeds the sum of (A) the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year and (B) the earnings and profits of the taxable year (computed as of the close of such year without diminution by reason of any distributions made during the taxable year);

(2) The corporation is required to make an election within six months after October 21, 1942, to have the amount of a dividend paid within such six-month period treated as a deficiency dividend;

(3) The election must be made by the filing of a claim for credit or refund within such six-month period;

(4) The dividend must be paid prior to the filing of the claim for credit or refund and the shareholders to whom the distribution is made must include such distribution as a taxable dividend in their returns for the taxable year in which such distribution is made;

(5) The credit or refund shall be made as provided in section 322, but without regard to section 322 (b) (relating to the limitations on the allowance of refunds or credits), or section 322 (c) (relating to the effect of petitions to the Board on refunds or credits);

(6) No credit or refund shall be made under section 506 (j), with respect to any amount of tax paid on or after October 21, 1942; and

(7) No interest shall be allowed on the credit or refund.

§ 19.506-11 *Claim for additional credit or refund for prior taxable year*—(a) *General.* A claim for additional credit or refund under section 506 (j), relating to election to have a certain dividend treated as a deficiency dividend, must be filed within six months after October 21, 1942, claiming the benefit of that section by reason of a dividend paid within such six-month period.

(b) *Form of claim.* The claim for additional credit or refund under this section shall be made in duplicate, on oath or affirmation, on Form 976A, copies of which, upon request, may be procured from any collector.

(c) *Contents of claim.* There shall be attached to and made a part of the claim a certified copy of the resolution of the board of directors, or other authority, authorizing the payment of the dividend with respect to which the claim is filed. In addition the claim shall, in accordance with the provisions of this section and the instructions on the form, set forth the following information:

(1) The name and address of the corporation;

(2) The place and date of incorporation;

(3) The amount of the personal holding company tax imposed for each of the taxable years involved; if tax paid (in whole or in part), date of payment and amount thereof;

(4) The amount of the income, upon which the personal holding company tax is imposed, in excess of the sum of the earnings and profits accumulated after February 28, 1913, as of the beginning of the taxable year, and the earnings and profits of the taxable year (computed as of the close of such year without diminution by reason of any distributions made during the taxable year);

(5) A statement setting forth the various classes of stock outstanding, the name and address of each shareholder, the class and number of shares held by each on the date of payment of the dividend with respect to which the claim is filed, and the amount of such dividend paid to each shareholder;

(6) The date the dividend was paid, the taxable year or years with respect to which such dividend applies, and the amount of the dividend to be apportioned to each taxable year;

(7) The amount claimed as a credit or refund; and

(8) Such other information as may be required by the claim form.

§ 19.506-12. *Effect of election.* If the corporation elects to have a distribution made within six months after October 21, 1942, considered as a deficiency dividend as provided in section 506 (j), and files the claim required by that section:

(a) The credit or refund shall be computed, and credited or refunded without interest, as provided in section 506 (b) and at the rates provided therein or in section 506 (g), as the case may be. However, such credit or refund shall not be allowed with respect to any deficiency attributable, in whole or in part, to fraud with intent to evade the tax or to a fail-

ure to file a timely return without reasonable cause for such failure. See section 506 (f). In any case where a dividend is apportioned to more than one taxable year the credit or refund shall be determined for each taxable year on the basis of the amount of the dividend apportioned thereto; and

(b) The dividends paid credit for the taxable year in which paid and for a prior taxable year or years shall be determined in the manner prescribed in section 506 (c) (2).

REGULATIONS 101 AND 94

PAR. 17. Section 186 of the Revenue Act of 1942 provides in part as follows:

SEC. 186. DISTRIBUTIONS BY PERSONAL HOLDING COMPANIES. (Revenue Act of 1942, Title I.)

(a) *Definition of dividend.*—

* * * * *

(2) *Amendment to Revenue Act of 1938.* Section 115 (a) of the Revenue Act of 1938 (relating to definition of dividend) is amended by inserting at the end thereof the following new sentence: Such term also means any distribution to its shareholders, whether in money or in other property, made by a corporation which, under the law applicable to the taxable year, in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which the distribution is made under section 405 (c) or section 407 is a personal holding company under the law applicable to such taxable year.

(3) *Amendment to Revenue Act of 1936.* Section 115 (a) of the Revenue Act of 1936 (relating to definition of dividend) is amended by inserting at the end thereof the following new sentence: Such term also means any distribution to its shareholders, whether in money or in other property, made by a corporation in a taxable year of the corporation beginning after December 31, 1936, which, for such year, is a personal holding company.

(b) *Personal holding company dividends not applied in reduction of basis.* Section 115 (b) (relating to source of distributions) of the Internal Revenue Code, the Revenue Act of 1938, and the Revenue Act of 1936, are amended by inserting at the end of such subsection the following new sentence: "The preceding sentence shall not apply to a distribution which is a dividend within the meaning of the last sentence of subsection (a).

(c) *Dividends paid after close of taxable year.* Section 504 (c) of the Internal Revenue Code and section 405 (c) of the Revenue Act of 1938 (relating to credit for dividends paid after close of taxable year) are amended as follows:

(1) By amending subsection (c) (1) and (2) to read as follows:

(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends would have been includible in the computation of the basic surtax credit for the taxable year if distributed during such taxable year; but the amount allowed under this subsection shall not exceed either:

(1) The undistributed Subchapter A net income for the taxable year computed without regard to this subsection; or;

(2) And by striking out "(3)" and inserting in lieu thereof "(2)".

(d) *Deficiency dividends.*—

* * * * *

(2) *Amendment of Revenue Act of 1938.*—The first sentence of section 407 (c) (1) of the Revenue Act of 1938 is amended to read as follows: "For the purposes of this title, the term 'deficiency dividends' means the amount of the dividends paid, on or after the date of the closing agreement or on or after the date the decision of the Board or the judgment becomes final, as the case may be, and prior to filing claim under subsection (d), which would have been includible in the computation of the basic surtax credit for the taxable year with respect to which the deficiency was asserted if distributed during such taxable year."

(3) *Amendment of Revenue Act of 1936.*—Title 1A of the Revenue Act of 1936, as amended (relating to surtax on personal holding companies), is further amended by adding at the end thereof the following new section:

SEC. 361. DEFICIENCY DIVIDENDS.

The provisions of section 407 of the Revenue Act of 1938, as amended by section 185 [186] (d) (2) of the Revenue Act of 1942 shall be applicable with respect to a deficiency established or determined under this title for any taxable year beginning after December 31, 1936, and before January 1, 1938.

(e) *Consent dividends.*

(1) Section 28 (d) (1) of the Internal Revenue Code and section 28 (d) (1) of the Revenue Act of 1938 are amended to read as follows:

(1) Unless it files (in accordance with regulations prescribed by the Commissioner with the approval of the Secretary) with its return for such year, or within one year after the date of enactment of the Revenue Act of 1942, in the case of a corporation which is a personal holding company for the taxable year with respect to which it claims the benefits of this section, signed consents made under oath by persons who were shareholders, on the last day of the taxable year, of the corporation, of any class of consent stock; and

(2) For the purposes of this section, section 28 of the Revenue Act of 1938, as amended by this subsection, shall be applicable with respect to a corporation for any taxable year beginning after December 31, 1936, and before January 1, 1938, for which it was, under the applicable law, a personal holding company, and to its shareholders. Such section 28 shall be applied as though the phrase "basic surtax credit" in subsection (c) thereof were "dividends paid credit".

(f) *Effective date of amendments.* The amendments made by subsections (a) to (e), inclusive, shall be effective as of the date of enactment of the laws amended thereby.

PAR. 18. Pursuant to the above provisions of law, §§ 19.28 (d)–1 and 19.28 (d)–3, 19.115–1, 19.504–3, 19.504–4, 19.504–5, and 19.504–6, 19.506–3, 19.506–4, 19.506–8, 19.506–9, 19506–10, 19.506–11, and 19.506–12 of Regulations 103, as amended or added by this Treasury decision (which regulations cover taxable years beginning after December 31, 1938), are hereby made applicable to taxable years beginning after December 31, 1936 and prior to January 1, 1939 (such years being covered by Regulations 101 and by Regulations 94, as amended by Treasury Decision 4791, approved January 14, 1938).

(Sec. 62 of the Internal Revenue Code (53 Stat. 32, 26 U.S.C., 1940 ed., 62), corresponding provisions of prior internal revenue laws, and sections 181, 182, 183, 184, 185, 186 and 132 (d) (e) of the Revenue Act of 1942 (Public Law 753, 77th Congress))

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: February 13, 1943.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-2532; Filed, February 16, 1943; 10:28 a. m.]

[T.D. 5229]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

CONSOLIDATED RETURNS FOR INCOME AND EXCESS-PROFITS TAXES

Regulations 103 amended to conform to section 159, Revenue Act of 1942, relating to making of consolidated income and excess profits tax returns.

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to section 159 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended to read as follows:

PARAGRAPH 1. There is inserted immediately preceding § 19.52–1 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Cross-reference.* Section 52 (b) is amended to read as follows:

(b) *Cross-reference.* For provisions relating to consolidated returns, see section 141.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 2. Section 19.52–1, as amended by Treasury Decision 5165, approved August 13, 1942, is further amended by changing the words "and of affiliated corporations, see section 141 and § 19.141–1" in the expression following the last semicolon in the third sentence to read as follows: "and of affiliated corporations, see section 141 and §§ 19.141–1 and 19.141–2".

PAR. 3. There is inserted immediately preceding § 19.141–1 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

(a) *General rule.* Section 141 (relating to consolidated returns of railroad corporations) is amended to read as follows:

SEC. 141. CONSOLIDATED RETURNS.

(a) *Privilege to file consolidated income and excess-profits-tax returns.*—An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making consolidated income and excess-profits-tax returns for the taxable year in lieu of separate returns. The making of consolidated returns shall be upon the condition that the affiliated group shall make both a consolidated income-tax return and a consolidated excess-profits-tax return for the taxable year, and that all corpora-

tions which at any time during the taxable year have been members of the affiliated group making a consolidated income-tax return consent to all the consolidated income- and excess-profits-tax regulations prescribed under subsection (b) prior to the last day prescribed by law for the filing of such returns. The making of a consolidated income-tax return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated returns shall include the income of such corporation for such part of the year as it is a member of the affiliated group. In the case of a corporation which is not a member of the affiliated group after March 31, 1942, of the last taxable year of such group which begins before April 1, 1942, such corporation shall not be considered a member of the affiliated group for consolidated income-tax-return purposes for such year but shall be considered a member of such group for consolidated excess-profits-tax-return purposes for such year, and the consent require in the case of such corporation shall relate only to the consolidated excess-profits-tax regulations.

(b) *Regulations.* The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making consolidated income- and excess-profits-tax returns and of each corporation in the group, both during and after the period of affiliation, may be returned, determined computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income- and excess-profits-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability. Such regulations shall prescribe the amount of the net operating loss deduction of each member of the group which is attributable to a deduction allowed for a taxable year beginning in 1941 on account of property considered as destroyed or seized under section 127 (relating to war losses), and the allowance of the amount so prescribed as a deduction in computing the net income of the group shall not be limited by the amount of the net income of such member.

(c) *Computation and payment of tax.* In any case in which consolidated income-tax and excess-profits-tax returns are made or are required to be made, the taxes shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) prescribed prior to the last day prescribed by law for the filing of such returns; except that the tax imposed under section 15 or section 204 shall be increased by 2 per centum of the consolidated corporation surtax net income of the affiliated group of includible corporations. Only one specific exemption of $5,000 provided in sectin 710 (b) (1) shall be allowed for the entire affiliated group of corporations for the purposes of the tax imposed by Subchapter E of Chapter 2.

(d) *Definition of "affiliated group."* As used in this section, an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporatin which is an includible corporation if—

(1) Stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) *Definition of "includible corporation".* As used in this section, the term 'includible corporation' means any corporation except:

(1) Corporations exempt under section 101 from the tax imposed by this chapter.

(2) Insurance companies subject to taxation under section 201 or 207.

(3) Foreign corporations.

(4) Corporations entitled to the benefits of section 251, by reason of receiving a large percentage of their income from sources within possessions of the United States.

(5) Corporations organized under the China Trade Act, 1922.

(6) Regulated investment companies subject to tax under Supplement Q.

(f) *Includible insurance companies.* Despite the provisions of paragraph (2) of subsection (e), two or more domestic insurance companies each of which is subject to taxation under the same section of this chapter shall be considered as includible corporations for the purpose of the application of subsection (d) to such insurance companies alone.

(g) *Subsidiary formed to comply with foreign law.* In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this chapter and of Subchapter E of Chapter 2 as a domestic corporation.

(h) *Suspension of running of statute of limitations.* If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(i) *Allocation of income and deductions.* For allocation of income and deductions of related trades or businesses, see section 45.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 4. Sections 19.141–1, 19.141–2, and 19.141–3 are amended to read as follows:

§ 19.141–1 *Consolidated income tax returns of affiliated corporations for taxable years beginning after December 31, 1938, but before January 1, 1942*—(a) *In general.* The regulations prescribed under section 141 (b), prior to its amendment by the Revenue Act of 1942, have been promulgated as Regulations 104 and are applicable to the making of consolidated income tax returns by affiliated corporations for taxable years beginning after December 31, 1938, in the case of railroad corporations, and after December 31, 1939, in the case of Pan-American trade corporations, but, in either case, before January 1, 1942, and to the determination, computation, assessment, collection, and adjustment of income tax liabilities under consolidated returns for such years. For definition of taxable year, see section 48.

(b) *Formation of and changes in affiliated group.* An affiliated group of railroad corporations, within the meaning of section 141, prior to its amendment by the Revenue Act of 1942, is formed at the time that the common parent corporation becomes the owner directly of at least 95 percent of the stock (as defined by subsection (d) of such section) of another corporation. A corporation becomes a member of such an affiliated group at the time that one or more members of such group become the owners directly of at least 95 percent of its stock. A corporation ceases to be a member of such an affiliated group at the time that the aggregate of its stock owned directly by the members of such group becomes less than 95 percent. As to when Pan-American trade corporations are deemed to be an affiliated group of corporations, see section 152.

(c) *Corporations to be included in consolidated returns.* The privilege of filing consolidated returns for taxable years beginning after December 31, 1938, in the case of railroad corporations, and after December 31, 1939, in the case of Pan-American trade corporations, but, in either case, before January 1, 1942, is limited to corporations constituting an "affiliated group" as defined in sections 141 (d) and 152 prior to their amendment by the Revenue Act of 1942. The Internal Revenue Code requires each corporation to be either (1) a corporation whose principal business is that of a "common carrier by railroad," (2) a corporation whose assets consist principally of stock in such corporations and which does not itself operate a business other than that of a "common carrier by railroad," or (3) a Pan-American trade corporation as defined in section 152. The term "common carrier by railroad" includes steam and electric railroads, street, suburban, and interurban electric railways, street and suburban trackless trolley systems of transportation, and street or suburban bus systems of transportation operated as a part of street or suburban electric railway or trackless trolley systems, but does not include express, refrigerator, or sleeping car companies. If a "common carrier by railroad" as above defined has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such properties is considered as the business of a common carrier by railroad. (As to what constitutes a Pan-American trade corporation, see §§ 19.152–1 and 19.152–2.)

A consolidated return must include every domestic corporation which is a member of the "affiliated group"; but shall not include a foreign corporation (except as provided in section 141 (h) prior to its amendment by the Revenue Act of 1942); a corporation organized under the China Trade Act, 1922; or a corporation entitled to the benefits of section 251.

PAR. 5. Section 19.141–4 is amended by redesignating such section as paragraph "(d)" of § 19.141–1, and by amending the

first sentence of such paragraph to read as follows:

In the case of a domestic corporation owning or controlling, directly or indirectly, the entire capital stock (exclusive of directors' qualifying shares) of a corporation described in section 141 (d) (3), prior to its amendment by the Revenue Act of 1942, and organized under the laws of Canada or of Mexico and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for taxable years beginning after December 31, 1938, as a domestic corporation.

PAR. 6. There is inserted immediately after § 19.141–1 (d) the following new section:

§ 19.141–2 *Consolidated income and excess profits tax returns of affiliated corporations for taxable years beginning after December 31, 1941*—(a) *In general.* Section 141, as amended by the Revenue Act of 1942, prescribes rules for the making, for taxable years beginning after December 31, 1941, of both consolidated income and excess profits tax returns by an affiliated group of corporations. Regulations promulgated as Regulations 104 applicable to consolidated income tax returns, and as Regulations 110 applicable to consolidated excess profits tax returns, as amended to reflect the provisions of the Revenue Act of 1942, under the authorization contained in section 141 (b), are applicable to the making of consolidated income and excess profits tax returns for taxable years beginning after December 31, 1941, and to the determination, computation, assessment, collection, and adjustment of income and excess profits tax liabilities of the affiliated group and each member thereof both during and after the period of affiliation. For definition of taxable year see section 48.

(b) *Formation of and changes in affiliated group.* An affiliated group of corporations, within the meaning of section 141, is formed at the time that the common parent corporation, which is an includible corporation, becomes the owner directly of stock possessing at least 95 percent of the voting power of all classes of stock and at least 95 per cent of each class of the nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends) of another includible corporation. A corporation becomes a member of such an affiliated group at the time that one or more members of such group become the owners directly of stock possessing at least 95 percent of the voting power of all classes of its stock and at least 95 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends). A corporation ceases to be a member of such an affiliated group at the time that the members of such group cease to own directly stock possessing at least 95 percent of the voting power of all classes of its stock, or at least 95 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends).

(c) *Corporations to be included in consolidated returns.* The privilege of filing consolidated income and excess profits tax returns for taxable years beginning after December 31, 1941, is extended to all includible corporations constituting an "affiliated group" as defined in section 141 (d). In case a corporation is a member of an affiliated group for a fractional part of the year, the consolidated returns shall include the income of such corporation for the part of the year during which it is a member of the group. However, a corporation which is not a member of such group after March 31, 1942, of the last taxable year of such group which begins before April 1, 1942, shall not be considered a member of such group for consolidated income tax return purposes for such year, but shall be considered a member of such group for consolidated excess profits tax return purposes for such year. An "includible corporation" is defined by section 141 (e) to mean any corporation except:

(1) A corporation exempt under section 101 from the tax imposed by Chapter I;

(2) An insurance company subject to taxation under section 201 or 207 (except as provided in section 141 (f));

(3) A foreign corporation (except as provided in section 141 (g));

(4) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its income from sources within possessions of the United States;

(5) A corporation organized under the China Trade Act, 1922; and

(6) A regulated investment company subject to tax under Supplement Q.

The consolidated income tax return and the consolidated excess profits tax return must include every includible corporation which, under the provisions of section 141, is a member of the affiliated group. In no case may a consolidated return be filed by subsidiary corporations as an affiliated group unless the common parent corporation through which the subsidiaries are connected is a member of the group. For instance there will not be recognized as an affiliated group two domestic industrial corporations the common parent corporation of which is a regulated investment company subject to tax under Supplement Q. In addition, no corporation which is connected by stock ownership with an affiliated group of includible corporations through a nonincludible corporation may be included in the consolidated return of such group.

Every corporation which is a member of an affiliated group making consolidated returns under section 141 is a member of such group both for consolidated income tax and consolidated excess profits tax return purposes, regardless of any exemption to which it might have been entitled if separate returns had been made. (See sections 725 (b) and 727.)

(d) *Consolidated returns of insurance companies.* An insurance company subject to tax under section 204 is an includible corporation and may be included in an affiliated group together with corporations other than insurance companies taxable under section 201 or section 207. Insurance companies subject to tax under section 201 or 207 are not includible corporations under section 141 (e) (2). Under section 141 (f), however, a domestic insurance company taxable under section 201 may be included in an affiliated group comprised solely of other domestic insurance companies taxable under section 201; it may not be included in an affiliated group with other corporations. Similarly, a domestic insurance company taxable under section 207 may be included in an affiliated group comprised solely of other domestic insurance companies taxable under section 207; it may not be included in an affiliated group with other corporations. An affiliated group of domestic insurance companies taxable under section 201, or a group of domestic insurance companies taxable under section 207 may not include a domestic insurance company taxable under section 204.

(e) *Foreign corporations which may be treated as domestic corporations.* In the case of a domestic corporation owning or controlling directly or indirectly, the entire capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of Canada or of Mexico and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated as a domestic corporation. The option to treat such foreign corporation as a domestic corporation must be exercised at the time of making the first consolidated income and excess profits tax returns under the Internal Revenue Code as amended by the Revenue Act of 1942, and cannot be exercised at any time thereafter. If the election is exercised to treat such foreign corporation as a domestic corporation, it must be included in both the consolidated income and excess profits tax returns of the affiliated group of which it is a member for each year for which such group makes or is required to make a consolidated return.

(f) *Computation of tax.* The surtax imposed by section 15 or section 204 upon an affiliated group making a consolidated income tax return shall be increased by 2 percent of the consolidated corporation surtax net income. In case the consolidated corporation surtax net income exceeds $25,000 but not $50,000, the surtax on the first $25,000 is $3,000 instead of $2,500 as provided in section 15 (b) (2) in the case of corporations not making a consolidated return.

PAR. 7. There is inserted immediately preceding § 19.152–1 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(b) *Pan-American trade corporations.* Section 152 (relating to consolidated income-tax returns of Pan-American trade corporations) shall not apply with respect to any taxable year beginning after December 31, 1941.

* * * * *

PAR. 8. There is inserted immediately after § 19.152–2 the following new section:

§ 19.152–3 *Years for which Pan-American trade corporations may file consolidated returns.* The provisions of section 152, and of §§ 19.152–1 and 19.152–2 shall be applicable only with respect to taxable years beginning after December 31, 1939, and prior to January 1, 1942. With respect to taxable years beginning after December 31, 1941, see section 141, as amended by the Revenue Act of 1942, and § 19.141–2.

PAR. 9. There is inserted immediately after section 238 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Foreign corporations.* Section 238 relating to denial of affiliation of foreign corporations) is repealed.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 10. There is inserted immediately preceding § 19.251–1 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(d) *Section 251 corporations.* Section 251 (1) (relating to denial of affiliation of section 251 corporations) is repealed.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 11. There is inserted immediately after section 264 the following:

SEC. 159. EXTENSION OF CONSOLIDATED RETURNS PRIVILEGE TO CERTAIN CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(e) China Trade Act Corporations.—Section 264 (relating to denial of affiliation of China Trade Act corporations) is repealed.

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C., 1940 ed., 62) and section 159 of the Revenue Act of 1942 (Public Law 753, 77th Congress).)

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: February 13, 1943.

JOHN L. SULLIVAN,
Acting Secretary of Treasury.

[F.R. Doc. 43–2534; Filed, February 16, 1943; 10:28 a. m.]

[T. D. 5230]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

MISCELLANEOUS AMENDMENTS

Regulations 103 amended to conform to certain sections[1] of the Revenue Act of 1942.

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to certain sections[1] of the Revnue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended to read as follows:

PARAGRAPH 1. There is inserted immediately preceding § 19.101 (18)–1 the following:

SEC. 137. EXEMPTION OF VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS. (Revenue Act of 1942, Title I.)

(a) *Exemption of Voluntary Employees' Beneficiary Association.* Section 101 (16) of the Internal Revenue Code, and of the Revenue Acts of 1938, 1936, and 1934, and section 103 (16) of the Revenue Acts of 1932 and 1928, are amended to read as follows:

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses;.

(b) *Retroactive effect.* For the purposes of the Internal Revenue Code and the Revenue Acts of 1928, 1932, 1934, 1936, and 1938, the amendments made to the Internal Revenue Code and those Acts by subsection (a) of this section shall be effective as if they were a part of the Internal Revenue Code and such revenue Acts on the respective dates of their enactment.

* * * * *

PAR. 2. There is inserted immediately preceding § 19.102–1 the following:

SEC. 138. DENIAL OF CAPITAL LOSS CARRY-OVER TO SECTION 102 COMPANIES. (Revenue Act of 1942, Title I.)

That part of section 102 (d) (1) (relating to definition of section 102 net income) which precedes subparagraph (A) is amended to read as follows:

(1) *Section 102 net income.* The term "section 102 net income" means the net income, computed without the benefit of the capital loss carry-over provided in section 117 (e) from a taxable year which begins after December 31, 1940, and computed without the net operating loss deduction provided in section 23 (s), minus the sum of _____.

SEC. 105. TAX ON CORPORATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(e) *Technical amendments made necessary by change in base for corporate tax.*

* * * * *

(2) *Computation of section 102 net income.* Section 102 (d) (1) (relating to the definition of section 102 net income) is amended by inserting at the end thereof the following new subparagraph:

(D) *Income subject to excess-profits tax.* The credit for income subject to the tax imposed by Subchapter E of Chapter 2 provided in section 26 (e).

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 3. There is inserted immediately preceding the heading Computation of Net Income which immediately precedes sec. 111, the following:

SEC. 141. WESTERN HEMISPHERE TRADE CORPORATIONS. (Revenue Act of 1942, Title I.)

The Internal Revenue Code is amended by inserting after section 108 the following new section:

SEC. 109. WESTERN HEMISPHERE TRADE CORPORATIONS.

For the purposes of this chapter, the term "western hemisphere trade corporation" means a domestic corporation all of whose business is done in any country or countries in North, Central, or South America, or in the West Indies, or in Newfoundland and which satisfies the following conditions:

(a) If 95 per centum or more of the gross income of such domestic corporation for the three-year period immediately preceding the close of the taxable year (or for such part of such period during which the corporation was in existence) was derived from sources other than sources within the United States; and

(b) If 90 per centum or more of its gross income for such period or such part thereof was derived from the active conduct of a trade or business.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

§ 19.109–1 *Western hemisphere trade corporations.* Under the provisions of section 15, as amended by section 105 of the Revenue Act of 1942, a domestic corporation qualifying as a western hemisphere trade corporation is, for taxable years beginning after December 31, 1941, exempt from the surtax imposed upon corporations generally by section 15 as thus amended. To so qualify, the following tests must be met:

(a) Its entire business must be carried on within the geographical limits of North, Central, or South America, or in the West Indies, or in Newfoundland; and

(b) 95 percent or more of its gross income for the 3-year period immediately preceding the close of the taxable year

[1] 105 (e) (2). Technical amendment relating to the definition of 102 net income. 115 (b). Basis of real property upon which improvements have been made by lessee. 137 (a). emption of voluntary employees' beneficiary associations. 137 (b). Retroactive effect of exemption of voluntary employees beneficiary associations. 138. Denial of capital loss carry-over to section 102 companies. 141. Western hemisphere trade corporations. 142. Non-recognition of loss and determination of basis in case of certain railroad reorganizations. 143. Basis of gifts. 144. Basis of property in case of optional value for estate tax purposes. 146. Effect on earnings and profits of wash sale losses. 147. Distributions in liquidation. 148. Income from sources without United States in certain cases. 149. Reciprocal exemption of compensation of employees of the Commonwealth of the Philippines. 166. Technical amendment to definition of "dividend".

(or for such part of such period during which the corporation was in existence) must be derived from sources without the United States; and

(c) 90 percent or more of its gross income for such period or such part thereof must be derived from the active conduct of a trade or business.

A domestic corporation is not excluded from the exemption merely because, incident to the conduct of its trade or business, it retains title in goods to insure payment for such goods shipped to a country outside the geographical areas enumerated in section 109.

A corporation which claims exemption as a Western Hemisphere Trade Corporation shall attach to its income tax return a statement showing that its entire business is done in one or more of the designated countries, and for the 3-year period immediately preceding the close of the taxable year (or for such part thereof during which the corporation was in existence) (1) its total gross income from all sources, (2) the amount thereof derived from the active conduct of a trade or business, (3) a description of such trade or business and the facts upon which the corporation relies to establish that such trade or business was actively conducted by it, and (4) the amount of its gross income, if any, from sources within the United States. The gross income from sources without the United States and within the United States shall be determined as provided in section 119 and the regulations prescribed thereunder.

PAR. 4. There is inserted immediately after section 112 (b) (8) the following:

SEC. 142. NONRECOGNITION OF LOSS AND DETERMINATION OF BASIS IN CASE OF CERTAIN RAILROAD REORGANIZATIONS. (Revenue Act of 1942, Title I.)

(a) *Nonrecognition of loss in railroad reorganizations.* Section 112 (b) (relating to the recognition of gain or loss upon the sale or exchange of property) is amended by inserting at the end thereof the following new paragraph:

(9) *Loss not recognized on certain railroad reorganizations.* No loss shall be recognized if property of a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended, is transferred, after December 31, 1939, in pursuance of an order of the court having jurisdiction of such corporation:

(A) In a receivership proceeding, or

(B) In a proceeding under section 77 of the National Bankruptcy Act, as amended, to a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended; organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding. The term "reorganization", as used in this paragraph, shall not be limited by the definition of such term in subsection (g).

* * * * *

(d) *Taxable years to which applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

§ 19.112 (b) (9)–1 *Nonrecognition of loss upon transfer of property of railroad corporation.* For the purpose of section 112 (b) (9), it is unnecessary that the transfer be a direct transfer by the corporation undergoing reorganization or that such reorganization constitute a reorganization within the meaning of section 112 (g). It is sufficient if the transfer is made in pursuance of an order of the court and is an integral step in the consummation of a plan of reorganization approved by the court having jurisdiction of the proceeding. If these conditions are satisfied, no loss is recognized to the transferor upon the ultimate transfer of the property, or to the transferor upon any intermediate transfer.

Section 112 (b) (9) applies only to a transfer resulting in a loss and has no application if the transfer therein described results in a gain.

PAR. 5. There is inserted immediately preceding § 19.113 (a) (2)–1 the following:

SEC. 143. BASIS OF GIFTS. (Revenue Act of 1942, Title I.)

(a) *Gifts after December 31, 1920.* The first sentence of section 113 (a) (2) is amended to read as follows: "If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of the gift as provided in subsection (b)) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value."

* * * * *

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 6. Section 19.113 (a) (2)–1, as amended by Treasury Decision 5137, approved April 11, 1942, is further amended as follows:

(A) By changing subsection (a) to read as follows:

(a) *Property included.* Section 113 (a) (2) applies to all property acquired after December 31, 1920, by gift. It does not apply:

(1) To property acquired by devise or bequest (see section 113 (a) (5)); or

(2) To property acquired by an instrument which, under section 113 (a) (5), is to be treated as though it were a will; or

(3) For taxable years beginning before January 1, 1942, to property acquired as a gift made by a transfer in trust.

Section 113 (a) (2) applies to all gifts of whatever description, whenever and however made, perfected, or taking effect; whether in contemplation of or intended to take effect in possession or enjoyment at or after the donor's death; or whether made by means of the exercise (other than by will) of a power of appointment or revocation, or any other power. For the purpose of determining basis for taxable years beginning before January 1, 1942, section 113 (a) (2) does not apply to property acquired as a gift made by a transfer in trust. See section 113 (a) (3). For the purpose of determining basis for taxable years beginning after December 31, 1941, section 113 (a) (2) applies whether the gift was made by a transfer in trust or otherwise.

(B) By changing the second sentence of the first paragraph of paragraph (b) to read as follows:

For the purpose of determining loss, the basis is as so determined, except that in any case in which such basis, adjusted for the period prior to the date of the gift as provided in section 113 (b), is greater than the fair market value of the property at the time of the gift, the basis is such fair market value.

(C) By inserting after the third sentence of the second paragraph of paragraph (b) the following sentence:

For taxable years beginning after December 31, 1941, such uniform basis applies to the property in the hands of the trustee or the beneficiary under a gift instrument, both during the term of the trust and after the distribution of the trust corpus.

(D) By relettering paragraph (d) as paragraph (e), and by inserting immediately after paragraph (c) the following:

(d) *Reinvestments by fiduciary.* For taxable years beginning after December 31, 1941, if the property is an investment by the fiduciary under the terms of the gift (as, for example, in the case of a sale by the fiduciary of property transferred under the terms of the gift, and the reinvestment of the proceeds), the cost or other basis to the fiduciary is taken in lieu of the basis specified in paragraph (b) of this section.

PAR. 7. There is inserted immediately preceding § 19.113 (a) (3)–1 the following:

SEC. 143. BASIS OF GIFTS. (Revenue Act of 1942, Title I.)

* * * * *

(b) *Transfers in trust after December 31, 1920.* Section 113 (a) (3) is amended to read as follows:

(3) *Transfer in trust after December 31, 1920.* If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 8. Section 19.113 (a) (3)–1, as amended by Treasury Decision 5137, is further amended as follows:

(A) By changing the second sentence of paragraph (a) to read as follows:

It does not apply to property acquired by bequest or devise, by an instrument which, under section 113 (a) (5), is to be treated as though it were a will, or, for taxable years beginning after December 31, 1941, to property acquired as a gift by transfer in trust made at any time after December 31, 1920.

(B) By inserting at the end of paragraph (a) the following sentence:

For taxable years beginning after December 31, 1941, if the property was acquired as a gift by transfer in trust, it is not within section 113 (a) (3), but is within section 113 (a) (2) or section 113 (a) (4).

PAR. 9. There is inserted immediately preceding § 19.113 (a) (5)–1 the following:

SEC. 144. BASIS OF PROPERTY IN CASE OF OPTIONAL VALUE FOR ESTATE TAX PURPOSES. (Revenue Act of 1942, Title I.)

(a) *Basis of property.* Section 113 (a) (5) (relating to basis of property transmitted at death) is amended by adding at the end thereof the following new sentence: "In the case of an election made by the executor under section 811 (j), the time of acquisition of the property shall, for the purpose of this paragraph, be the applicable valuation date of the property prescribed by such section in determining the value of the gross estate."

(b) *Property to which amendment applicable.* The amendment made by this section shall be applicable only with respect to property includable in the gross estate of a decedent dying after the date of the enactment of this Act.

PAR. 10. Section 19.113 (a) (5)–1 is amended as follows:

(A) By changing the first sentence of paragraph (b), following *Basis*, to read as follows:

Section 113 (a) (5) provides three rules for determining the basis of property transmitted at death, first a rule governing property generally, second a special rule governing stock in a foreign personal holding company, and third a special rule applicable to both the first and second rules in certain cases where for estate tax purposes the decedent's gross estate is valued at the optional valuation dates.

(B) By changing the first part of the first sentence of paragraph (b) (1), reading "Except as prescribed in paragraph (2)", to read "Except as prescribed in subparagraphs (2) and (3) of this paragraph".

(C) By inserting immediately preceding paragraph (c) the following:

(3) *Special rule where property valued at optional valuation dates.* Section 113 (a) (5), as amended by the Revenue Act of 1942, provides a special rule applicable in determining the basis of property described in paragraphs (1) and (2) of this subsection where:

(i) Such property is includible in the gross estate of a decedent who died after October 21, 1942, and

(ii) The executor elects for estate tax purposes under section 811 (j) to value the decedent's gross estate at the optional valuation dates prescribed in such section.

In such cases, the time of acquisition of such property for the purposes of subparagraphs (1) and (2) of this paragraph and the remainder of this section is considered to be the date at which such property is valued for estate tax purposes. Thus, in such cases, generally the basis will not be the value at the date of the decedent's death but (with certain limitations) the value at the date one year after his death or, in the case of such property distributed by the executor (or trustee, in certain cases) within one year after the decedent's death, the value as of the time of such distribution. See § 81.11 of Regulations 105.

(D) By changing paragraph (c) to read as follows:

(c) *Fair market value.* For the purposes of this section, the value of property as of the date of the death of the decedent as appraised for the purpose of the Federal estate tax or the optional value as appraised for such purpose, whichever is applicable as provided in (3) of paragraph (b), or if the estate is not subject to such tax, its value appraised as of the date of the death of the decedent for the purpose of State inheritance or transmission taxes, shall be deemed to be its fair market value at the time of acquisition.

PAR. 11. There is inserted immediately after § 19.113 (a) (19)–2 the following:

SEC. 142. NONRECOGNITION OF LOSS AND DETERMINATION OF BASIS IN CASE OF CERTAIN RAILROAD REORGANIZATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(b) *Basis of property acquired by certain railroad corporations.* Section 113 (a) (relating to the basis of the property) is amended by inserting at the end thereof the following new paragraph:

(20) *Property acquired by railroad corporation.* If the property of a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended, was acquired after December 31, 1939, in pursuance of an order of the court having jurisdiction of such corporation—

(A) in a receivership proceeding, or

(B) in a proceeding under section 77 of the National Bankruptcy Act, as amended, and the acquiring corporation is a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended, organized or made use of to effectuate a plan or [sic] reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired. The term "reorganization" as used in this paragraph, shall not be limited by the definition of such term in section 112 (g).

* * * * *

(d) *Taxable years to which applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

§ 19.113 (a) (20)–1 *Property acquired by railroad corporation in a receivership or bankruptcy proceeding.* Section 113 (a) (20) sets forth certain conditions under which the basis of property acquired by a railroad corporation is the same as it would have been in the hands of the railroad corporation whose property was acquired. For the purpose of section 113 (a) (20), it is unnecessary that the acquisition in question be a direct transfer from the corporation undergoing reorganization or that such reorganization constitute a reorganization within the meaning of section 112 (g). It is sufficient if the acquisition is in pursuance of an order of the court and is an integral step in the consummation of a reorganization plan approved by the court having jurisdiction of the proceeding.

If the conditions of section 113 (a) (20) are satisfied, then for the purpose of determining basis, the provisions of section 113 (a) (20) only shall apply, notwithstanding that the transaction might also fall within another provision of section 113 (a).

SEC. 142. NONRECOGNITION OF LOSS AND DETERMINATION OF BASIS IN CASE OF CERTAIN RAILROAD REORGANIZATIONS. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Basis of property acquired pursuant to railroad reorganization under section 77B of the National Bankruptcy Act, as amended.* Section 113 (a) (relating to the basis of the property) is amended by inserting at the end thereof the following new paragraph:

(21) *Property acquired by street, suburban, or interurban electric railway corporation.* If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77B of the National Bankruptcy Act, as amended, and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of Chapter X of the National Bankruptcy Act, as amended, the basis, for any taxable year beginning after December 31, 1939, shall be the same as it would be in the hands of the corporation whose property was so acquired. The term "reorganization", as used in this paragraph, shall not be limited by the definition of such term in section 112 (g).

(d) *Taxable years to which applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1939.

§ 19.113 (a) (21)–1 *Property acquired by electric railway corporation in bankruptcy proceeding.* Subject to the limitations and conditions set forth in section 113 (a) (21), if the reorganization under section 77B of the National Bankruptcy Act, as amended, of an electric railway corporation results in the acquisition of the property of such corporation by another corporate entity, the basis of such property in the hands of the acquiring corporation is the same as it would be in the hands of the old corporation. It is requisite to the application of the section that both corporations be street, suburban, or interurban electric railway corporations engaged in the transportation of persons or property in interstate commerce, and that the acquisition is in pursuance of an order of the court and is an integral step in the consummation of a reorganization plan approved by the court having jurisdiction of the proceeding. If section 113 (a) (21) applies, section 270 of Chapter X of the National Bankruptcy Act, as amended, relating to the adjustment of basis by reason of the cancellation or reduction of indebtedness in a bankruptcy proceeding, is inapplicable. Moreover, if the transaction is within the provisions of section 113 (a) (21) and may also be considered to be within any other provision of section 113 (a), then

the provisions of section 113 (a) (21) only shall apply.

PAR. 12. There is inserted immediately after § 19.113 (b) (3)–2 the following:

SEC. 115. IMPROVEMENTS BY LESSEE. (Revenue Act of 1942, Title I.)

* * * * *

(b) *Basis of real property upon which improvements have been made by lessee.* Section 113 (relating to basis for determining gain or loss) is amended by adding at the end thereof the following new subsection:

(c) *Property on Which Lessee Has Made Improvements.* Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under section 22 (b) (11). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1942, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

§ 19.113 (b) (3)–3 *Property on which lessee has made improvements.* In any case in which a lessee of real property has erected buildings or made other improvements upon the leased property and the lease is terminated by forfeiture or otherwise resulting in the realization by such lessor of income which, were it not for the provisions of section 22 (b) (11) of the Internal Revenue Code, would be includible in gross income of the lessor, the amount so excluded from gross income shall not be taken into account in determining the basis or the adjusted basis of such property or any portion thereof in the hands of the lessor. If, however, in any taxable year beginning prior to January 1, 1942, there has been included in the gross income of the lessor an amount representing any part of the value of such property attributable to such buildings or improvements, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income. For example, A leased in 1930 from B for a period of 25 years unimproved real property and in accordance with the terms of the lease B erected a building on the property. It was estimated that upon expiration of the lease the building would have a depreciated value of $50,000, which value the lessor elected to report (beginning in 1931) as income over the term of the lease. In 1942 B forfeits the lease. The amount of $22,000 reported as income by A during the years 1931 to 1941, both years inclusive, shall be added to the basis of the property represented by the improvements in the hands of A. If in such case A did not report during the period of the lease any income attributable to the value of the building erected by the lessee and the lease was forfeited in 1940 when the building was worth $75,000, such amount, having been included in gross income under the law applicable to that year, is added to the basis of the property represented by the improvements in the hands of A. As to treatment of such property for the purposes of capital gains and losses, see section 117.

PAR. 13. There is inserted immediately preceding § 19.115–1 the following:

SEC. 146. EFFECT ON EARNINGS AND PROFITS OF WASH SALE LOSSES. (Revenue Act of 1942, Title I.)

(a) *Wash sale losses not recognized.* Section 115 (1) (relating to earnings and profits of corporations) is amended by inserting after the third sentence thereof the following new sentence: For the purposes of this subsection, a loss with respect to which a deduction is disallowed under section 118, or a corresponding provision of a prior income-tax law, shall not be deemed to be recognized.

(b) *Effective date of amendment.* The amendment made by this section shall be effective as if it were made by section 501 of the Second Revenue Act of 1940.

SEC. 147. DISTRIBUTIONS IN LIQUIDATION. (Revenue Act of 1942, Title I.)

Section 115 (c) is amended to read as follows:

(c) *Distributions in liquidation.* Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. In the case of amounts distributed (whether before January 1, 1939, or on or after such date) in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. If any distribution in partial liquidation or in complete liquidation (including any one of a series of distributions made by the corporation in complete cancellation or redemption of all its stock) is made by a foreign corporation which with respect to any taxable year beginning on or before, and ending after, August 26, 1937, was a foreign personal holding company, and with respect to which a United States group (as defined in section 331 (a) (2)) existed after August 26, 1937, and before January 1, 1938, then, despite the foregoing provisions of this subsection, the gain recognized resulting from such distribution shall be considered as a gain from the sale or exchange of a capital asset held for not more than 6 months.

SEC. 166. TECHNICAL AMENDMENT TO DEFINITION OF "DIVIDEND". (Revenue Act of 1942, Title I.)

Section 115 (a) (relating to definition of dividends) is amended by striking out "(except in section 203 (a) (3) and section 207 (c) (1), relating to insurance companies)" and inserting the following "(except in section 201 (c) (5), section 204 (c) (11) and section 207 (a) (2) and (b) (3) (where the reference is to dividends of insurance companies paid to policy holders))."

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (Revenue Act of 1942, Title I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1941.

PAR. 14. Section 19.115–1 is amended by changing the parenthetical expression appearing after the words "chapter 1" in the first sentence of the first paragraph to read as follows:

(except when used in section 201 (c) (5), section 204 (c) (11) and section 207 (a) (2) and (b) (3) where the reference is to dividends of insurance companies paid to policyholders).

PAR. 15. Section 19.115–5, as amended by Treasury Decision 5086, approved October 10, 1941, is further amended as follows:

(A) By changing the last sentence of the first paragraph of subdivision (*b*) to read as follows:

For this purpose the term "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, but not exceeding, from the close of the taxable year during which it is made the first of the series of distributions under the plan, (1) three years if the first of such series of distributions is made in a taxable year beginning after December 31, 1937, but not after December 31, 1941, or (2) two years, if the first of such series of distributions was made in a taxable year beginning prior to January 1, 1938.

(B) By inserting immediately preceding subdivision (c) the following:

Example. A, an individual who makes his income tax returns on the calendar year basis, owns 20 shares of stock of the P Corporation, a domestic corporation, 10 shares of which were acquired in 1931 at a cost of $1,500, and the remainder of 10 shares in December 1941, at a cost of $2,900. He receives in April 1942, a distribution of $250 per share in complete liquidation, or $2,500 on the 10 shares acquired in 1931, and $2,500 on the 10 shares acquired in December 1941. The gain of $1,000 on the shares acquired in 1931 should be included in A's gross income to the extent of 50 percent, or $500; the loss of $400 on the shares acquired in 1941 should be deducted in computing A's net income to the extent of 100 percent, or $400. (See section 117.)

(C) By changing the first sentence of paragraph (c) to read as follows:

In the case of amounts distributed in a partial liquidation of a corporation, the amount of the gain or loss recognized is subject to the limitations contained in section 117, but, with respect to taxable years beginning after December 31, 1938, and not after December 31, 1941, the entire amount of the gain recognized shall be considered as a short-term capital gain despite the provisions of section 117.

(D) By inserting at the end thereof the following:

Example. A, an individual who makes his income tax return on the calendar year basis, owned 20 shares of participating preferred stock of the Z Corporation, 10 shares of which were acquired in 1933 for $1,700 and 10 shares of which were acquired in January 1942, for $1,120. In May 1942, the corporation in a transaction qualifying as a partial liquidation redeemed the entire issue of preferred stock by paying the holders thereof $152 per share. A received $1,520 on the 10 shares acquired in 1933, and $1,520 on the 10 shares acquired in January 1942. The loss of $180 on the shares acquired in 1933 should be deducted in computing A's net income to the extent of 50 percent, or $90; the gain of $400 on the shares acquired in January 1942, should be included in A's gross income to the extent of 100 percent, or $400. (See section 117.)

PAR. 16. Section 19.115–12, as added by Treasury Decision 5024, approved December 19, 1940, is amended by striking out the third sentence of the second paragraph and substituting therefor the following sentences:

A loss (other than a wash sale loss with respect to which a deduction is disallowed under the provisions of section 118 or corresponding provisions of prior revenue laws) may be recognized though not allowed as a deduction (by reason, for example, of the operation of sections 24 (b) and 117 and corresponding provisions of prior revenue laws) but the mere fact that it is not allowed does not prevent decrease in earnings and profits by the amount of such disallowed loss. Wash sale losses, however, disallowed under section 118 and corresponding provisions of prior revenue laws, are deemed nonrecognized losses and do not reduce earnings or profits.

PAR. 17. There is inserted immediately preceding § 19.116–1 the following:

SEC. 148. INCOME FROM SOURCES WITHOUT UNITED STATES IN CERTAIN CASES. (Revenue Act of 1942, Title I.)

(a) *Exclusion of Earned Income From Foreign Sources.* Section 116 (a) (relating to earned income from sources without the United States) is amended to read as follows:

(a) Earned Income From Sources Without the United States.—

(1) *Foreign resident for entire taxable year.* In the case of an individual citizen of the United States, who establishes to the satisfaction of the Commissioner that he is a bona fide resident of a foreign country or countries during the entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; but such individuals shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection.

(2) *Taxable year of change of residence to United States.* In the case of an individual citizen of the United States, who has been a bona fide resident of a foreign country or countries for a period of at least two years before the date on which he changes his residence from such country to the United States, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof), which are attributable to that part of such period of foreign residence before such date, if such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection.

(b) *Taxable years to which amendment applicable.* The amendment made by subsection (a) shall be applicable with respect to taxable years beginning after December 31, 1942, and so much of the amendment made by subsection (a) as inserts paragraph (2) in section 116 (a) shall also be applicable to taxable years beginning in 1942.

SEC. 149. RECIPROCAL EXEMPTION OF COMPENSATION OF EMPLOYEES OF THE COMMONWEALTH OF THE PHILIPPINES. (Revenue Act of 1942, Title I.)

(a) Section 116 (h) (relating to reciprocal exemption of official compensation) is amended to read as follows:

(*h*) *Compensation of employees of foreign governments or of the Commonwealth of the Philippines.*

(1) *Rule for exclusion.* Wages, fees, or salary of an employee of a foreign government or of the Commonwealth of the Philippines (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government or such Commonwealth—

(A) If such employee is not a citizen of the United States, or is a citizen of the Commonwealth of the Philippines (whether or not a citizen of the United States); and

(B) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries or in the Commonwealth of the Philippines, as the case may be; and

(C) If the foreign government, or the Commonwealth of the Philippines, whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country or such Commonwealth, as the case may be.

(2) *Certificate by Secretary of State.* The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries. If the Commonwealth of the Philippines grants an equivalent exemption to the employees of the United States performing services in such Commonwealth the Secretary of State shall certify such fact to the Secretary of the Treasury and the character of the services performed by employees of the Government of the United States in such Commonwealth.

(b) The amendment made by this section shall be applicable only to taxable years beginning after December 31, 1939.

SEC. 19.116–1 *Earned income from sources without the United States.* For taxable years beginning after December 31, 1942, there is excluded from gross income earned income in the case of an individual citizen of the United States provided the following conditions are met by the taxpayer claiming such exclusion from his gross income: (a) It is established to the satisfaction of the Commissioner that the taxpayer has been a bona fide resident of a foreign country or countries throughout the entire taxable year; (b) such income is from sources without the United States; (c) the income constitutes earned income as defined in section 25 (a) if received from sources within the United States; and (d) such income does not represent amounts paid by the United States or any agency or instrumentality thereof. Hence, a citizen of the United States taking up residence without the United States in the course of the taxable year is not entitled to such exemption for such taxable year. However, once bona fide residence in a foreign country or countries has been established, temporary absence therefrom in the United States on vacation or business trips will not necessarily deprive such individual of his status as a bona fide resident of a foreign country. Whether the individual citizen of the United States is a bona fide resident of a foreign country shall be determined in general by the application of the principles of §§ 19.211–2, 19.211–3, 19.211–4 and 19.211–5 relating to what constitutes residence or nonresidence, as the case may be, in the United States in the case of an alien individual.

For any taxable year beginning after December 31, 1941, in the case of an individual citizen of the United States, there shall be excluded from gross income earned income from sources without the United States derived during the period of his foreign residence if (a) such citizen was a bona fide resident of a foreign country or countries for at least two years prior to the date upon which he becomes a resident of the United States and ceased to be a resident of such foreign country or countries; (b) such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; and (c) such income does not represent amounts paid by the United States or any agency or instrumentality thereof. The application of this provision may be illustrated by the following example:

Example. A, a United States citizen making his return on a calendar year basis, has been a resident of X Country for a period of four years ended June 30, 1942, upon which date he becomes a resident of the United States and ceases to be a resident of X Country. Throughout the years 1940 and 1941, A had rendered personal services in the X Country payment for which was not made until August 1942, at which time he was paid for such services the sum of $50,000. Such amount may be excluded from gross income of A for the calendar year 1942.

In any case in which any amount otherwise constituting gross income is excluded from gross income under the provisions of section 116 (a), there shall not be allowed as a deduction from gross income any items of expenses or losses or other deductions properly applicable to or chargeable against the amounts so excluded from gross income.

PAR. 18. Section 19.116–1, as amended by Treasury Decision 5124, approved March 5, 1942, is further amended as follows:

(A) By changing the number "19.116–1" to "19.116–2".

(B) By inserting immediately after "(But see section 116 (a).)" the following:

Subject to the same conditions, for taxable years beginning after December 31, 1939, wages, fees, or salaries of an employee of the Commonwealth of the Philippines received as compensation for official services rendered to such commonwealth are exempt from Federal income tax subject to the same kind of certification by the Secretary of State to the Secretary of the Treasury. Such latter exemption does not apply to a citizen of the United States unless he is also a citizen of the Commonwealth of the Philippines. (See section 251.)

PAR. 19. Section 19.116–2, as it existed prior to this Treasury decision, is amended by changing the number "19.116–2" to "19.116–3".

(Secs. 105 (e) (2), 115 (b), 137 (a), 137 (b), 138, 141, 142, 143, 144, 146, 147, 148,

149 and 166 of the Revenue Act of 1942 (Public Law 753, 77th Cong.), and sec. 62 of the Internal Revenue Code (53 Stat. 32, 26 U.S.C., 1940 ed., 62))

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: February 13, 1943.
JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 43-2533; Filed, February 16, 1943; 10:28 a. m.]

TITLE 29—LABOR

Chapter IX—Agricultural Labor

PART 1101—WAGES IN PRODUCTION OF SUGAR BEETS AND SUGARCANE

APPROVAL OF DECREASE IN WAGES

By virtue of the authority vested in the Secretary of Agriculture by §§ 4001.5c and 4001.5d of the regulations promulgated by the Director of Economic Stabilization, with the approval of the President, dated November 30, 1942 (7 F.R. 10024), the following order of approval is hereby promulgated:

§ 1101.1 *Approval of decrease in wages.* Approval is hereby given to the payment of wages by the employer to agricultural labor employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane, below the highest wage paid for such work between January 1, 1942, and September 15, 1942, provided such wages are not less than the wages required to be paid for such work in order for the producer to qualify for conditional payments made pursuant to Title III of the Sugar Act of 1937, as amended (50 Stat. 909).

(Pub. Law 729, 77th Cong., §§ 4001.5c and 4001.5d of the regulations promulgated by the Director of Economic Stabilization, dated November 30, 1942, 7 F.R. 10024)

Done at Washington, D. C., this 15th day of February 1943. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 43-2540; Filed, February 16, 1943; 11:13 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-1743]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

AMENDMENT OF RELIEF ORDER

Order amending order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 8 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 8.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting, among other things, the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of the No. 4 Mine, Mine Index No. 5823, of the Crystal Block Coal and Coke Company and the Blue Gem Mine, Mine Index No. 5805 of the Gatliff Coal Company in District No. 8; and

An order granting temporary and conditionally final relief as prayed for having been issued hereon December 21, 1942, 8 F.R. 341; and

A motion having been filed by the petitioner on January 29, 1943 with the Division, requesting (1) that the temporary and conditionally final relief heretofore granted by said order be modified with respect to the said No. 4 Mine, Mine Index No. 5823 and to the said Blue Gem Mine, Mine Index No. 5805, by extending said temporary and conditionally final relief to April 3, 1943; and (2) that the seam designation of coals produced from the Ridge View Mine, Mine Index No. 407 of the Ridge View Coal Company be changed from "Cedar Grove and No. 2 Gas" to "No. 2 Gas"; and

It appearing from said motion that petitioner has not been able to secure commercial testing analyses of coals and other data with regard to the relative market values of the coals produced at the said No. 4 Mine, Mine Index No. 5823 and the said Blue Gem Mine, Mine Index No. 5805; and

It further appearing from said motion that Ridge View Coal Company has discontinued mining coals from the Cedar Grove seam and that this producer is now engaged in removing rail and other mining equipment from its operations in the Cedar Grove seam; and

It further appearing that a reasonable showing of necessity has been made for the granting of said motion; that no petitions of intervention and no motions in opposition to the granting of said motion have been filed with the Division in the above-entitled matter; and that the following action is deemed necessary to effectuate the purposes of the Act;

Now, therefore, it is ordered, That said motion be, and the same hereby is, granted and that the temporary relief heretofore granted by the order issued herein on December 21, 1942, 8 F.R. 341, be, and the same hereby is, continued to April 3, 1943, at which time such relief shall become final unless otherwise ordered during the intervening period.

It is further ordered, That the seam designation of coals produced from the Ridge View Mine, Mine Index No. 407 of the Ridge View Coal Company be, and the same hereby is, changed from "Cedar Grove and No. 2 Gas" to "No. 2 Gas."

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within 45 days from the date of this order, pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: February 13, 1943.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 43-2535; Filed, February 16, 1943; 10:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[No. 170]

DELIVERY LIST

ORDER REVISING FORM

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301-318, inclusive); E.O. No. 8545, 5 F.R. 3779, E.O. No. 9279, 7 F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 151, entitled "Delivery List," effective immediately upon the filing hereof with the Division of the Federal Register.[1]

The foregoing revision shall become a part of the Selective Service Regulations effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

FEBRUARY 15, 1943.

[F. R. Doc. 43-2500; Filed, February 15, 1943; 3:17 p. m.]

[No. 171]

NOTICE OF CALL

ORDER PRESCRIBING FORM

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301-318, inclusive); E.O. No. 8545, 5 F.R. 3779, E.O. No. 9279, 7 F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 10, entitled "Notice of Call," effective immediately upon the filing hereof with the Division of the Federal Register.[2]

The foregoing revision shall become a part of the Selective Service Regulations effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JANUARY 28, 1943.

[F. R. Doc. 43-2528; Filed, February 16, 1943; 9:15 a. m.]

[1] Filed with the Division of the Federal Register.
[2] Filed as part of the original document.

[No. 172]

QUARTERLY WORK PROGRESS REPORT

ORDER PRESCRIBING FORM

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301–318, inclusive); E.O. No. 8545, 5 F.R., 3779, E.O. No. 9279, 7 F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No 26, 7 F.R. 10512, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 52, entitled "Quarterly Work Progress Report," effective immediately upon the filing hereof with the Division of the Federal Register.[1]

The foregoing revision shall become a part of the Selective Service Regulations effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JANUARY 30, 1943.

[F. R. Doc. 43–2529; Filed, February 16, 1943; 9:15 a. m.]

PART 623—CLASSIFICATION PROCEDURE

[Amendment 127, 2d Ed.]

PHYSICAL EXAMINATION BY EXAMINING PHYSICIAN

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301–318, inclusive); E.O. No. 8545, 5 F.R. 3779, E.O. No. 9279, 7. F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512, Selective Service Regulations, Second Edition, are hereby amended in the following respect:

1. Amend § 623.33 to read as follows:

§ 623.33 *Physical examination by examining physician.* (a) The Director of Selective Service, from time to time, will issue a List of Defects (Form 220), which will set forth defects which manifestly disqualify the registrant for military service.

(b) A registrant shall personally appear before the examining physician and shall be examined in the manner provided in paragraph (c) of this section except when the examining physician or the local board is convinced that the appearance of the registrant for physical examination before the examining physician will be injurious to the registrant's health or the health of those who might be brought in contact with him. When the registrant appears before the examining physician, his physical examination should be held in a well-lighted, well-heated place. It should be held while the registrant is in the nude.

(c) The physical examination should consist of observing the registrant while walking toward, standing before, and walking away from the examining physician. The registrant may be required to go through calisthenics to determine the mobility of joints or to furnish a basis for determination of his alertness, intelligence, understanding of commands, postural tensions, tendencies to incoordination, and tremors. If peculiarities are noted, simple questions should be asked in an effort to bring out replies bearing on the mental health and personality characteristics of the registrant. The examining dentist, or if he is not available, the examining physician, will examine the mouth of the registrant. The examining physician will take blood from the registrant for a serological test. The blood specimen will be collected in a container furnished by the State health officer and will be forwarded to the State laboratory or other laboratory designated by the State Director of Selective Service, together with the accomplished form prescribed within the State for such purpose. If the report on the first serological test of the registrant is other than truly negative, the examining physician shall take additional blood for further serological tests until he is satisfied that the blood is truly negative, truly doubtful, or truly positive. Additional blood for further serological tests will not be taken if distance or circumstances over which the local board or the registrant has no control make it impracticable for additional tests to be taken. Serological tests will be accomplished without expense to the Selective Service System, unless such expense is specifically authorized by the Director of Selective Service. No other laboratory procedures will be undertaken as a part of this physical examination.

(d) Local boards, with the assistance of the examining physician and such agencies that may be designated by the State Director of Selective Service, should seek from any source possible, information bearing on a history of mental disease in the family of the registrant or social maladjustment, poor work record, other mental or personality disorders of the registrant, or any physical condition which might cause the armed forces ultimately to reject the registrant. This information may be secured from local social agencies, school systems, state hospitals, training schools for defectives, and any other sources. The local board shall submit lists of registrants whose physical qualifications are being considered to such agencies as the Director of Selective Service or State Director of Selective Service may specify to assist in securing this information. The examining physician shall review the information thus received, and the local board shall forward this information or an abstract thereof to the induction station in accordance with arrangements mutually agreeable to the State Director of Selective Service and the induction station for the transmittal of such information. When such information is being forwarded, a notation to that effect will be entered under "Remarks," Item 25 of the Report of Physical Examination and Induction (Form 221).

(e) The examining physician may report to the local board that a registrant is suffering from a condition listed in the List of Defects (Form 220) basing his report upon one or more of the following: (1) the physical examination of the registrant while he is before him; (2) his personal professional knowledge of the registrant's physical condition; (3) an acceptable affidavit from a reputable physician to the effect that such physician has personal professional knowledge of the registrant's physical condition, provided such affidavit is filed with the local board; or (4) an official statement from a Government or State agency concerning the physical condition of the registrant, provided such statement is filed with the local board.

(f) The examining physician shall procure from the registrant the necessary information and shall complete Items 22 and 23 of the Report of Physical Examination and Induction (Form 221).

(g) The examining physician shall enter in Item 24 on the Report of Physical Examination and Induction (Form 221) the result of the serological tests as "Truly Negative," "Truly Doubtful," or Truly Positive."

(h) The examining physician will enter in Item 25 on the Report of Physical Examination and Induction (Form 221) any pertinent remarks which he deems advisable for the benefit of the examiners at the induction station.

(i) The examining physician, in Item 26 on the Report of Physical Examination and Induction (Form 221), shall complete the answer to the following question:

Do you find that the above-named registrant has any of the defects set forth in the List of Defects (Form 220)?

If the examining physician's answer is "Yes," he shall describe the defects in order of their significance. If the examining physician entertains a doubt as to whether he should answer "Yes" or "No," his answer shall be "No." No other information should be included under Item 26.

2. The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

FEBRUARY 15, 1943.

[F. R. Doc. 43–2527; Filed, February 16, 1943; 9:15 a. m.]

Chapter IX—War Production Board

Subchapter B—Director General for Operations

AUTHORITY: Regulations in this subchapter issued under P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.

PART 1010—SUSPENSION ORDERS

[Suspension Order S–238]

HOUSE OF JAVA CO., INC.

The House of Java Co., Inc., located at 803 Greenwich Street, New York, New York, is a New York corporation engaged in the business of selling roasted coffee. The Company is a roaster as defined in Conservation Order M–135 which restricted deliveries of coffee by roasters. During each of the months in the period of June 1, 1942 through October 31, 1942, the Company violated Conservation Order M–135 by delivering to its customers coffee in excess of the quantity which it was permitted to deliver during such

[1] Filed as part of the original document.

months. The Company's excess deliveries amounted to 19,389 pounds of coffee.

These violations of Conservation Order M–135 have impeded and hampered the war effort of the United States. In view of the foregoing, *It is hereby ordered,* That:

§ 1010.238 *Suspension Order S–238.* (a) The House of Java Co., Inc., its successors and assigns, shall not, as owner, agent or broker, sell, transfer or deliver any green or roasted coffee, except as specifically authorized by the Director General for Operations: *Provided, however,* That The House of Java Co., Inc., may sell and deliver such roasted coffee as shall be in its possession upon the effective date of this order.

(b) Nothing contained in this order shall be deemed to relieve The House of Java Co., Inc., its successors and assigns, from any restriction, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, except in so far as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect February 18, 1943, and shall expire on May 18, 1943, at which time the restrictions contained in this order shall be of no further effect.

Issued this 15th day of February 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–2526; Filed, February 15, 1943; 5:01 p. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S–243]

TYNE CO., ILLINOIS ORDNANCE WORKS

John J. Tyne, Sr., John J. Tyne, Jr., Nicholas Hermes and Thomas J. Fogarty, of Chicago, Illinois, are engaged in the business of warehousing and fabricating steel pipe and other steel products under the name of Tyne Co. and Illinois Ordnance Works. Between September 24, 1942 and October 22, 1942, Tyne Co. placed orders with various steel producers for steel pipe extending a preference rating of AA–1 to 368,253 pounds of pipe and a preference rating of AA–2 to 198,618 pounds of pipe. At the time these orders were placed and the ratings extended, Tyne Co. was authorized to extend an AA–1 rating for only 92,742 pounds of pipe and an AA–2 rating for only 51,985 pounds of pipe under the provisions of Priorities Regulation No. 3 and Supplementary Order M–21–b. Tyne Co., therefore, extended an AA–1 rating to 275,511 pounds of pipe over and above the amount it was authorized to receive on this rating and extended an AA–2 rating to 146,633 pounds of pipe over and above the amount authorized. These extensions were made with knowledge of the restrictions contained in Priorities Regulation No. 3 and Supplementary Order M–21–b and constituted wilful violations of these Orders.

Tyne Co. also violated Supplementary Order M–21–b by failing to apply preference ratings for deliveries of steel pipe to stock on Form PD–83–g and in failing to extend to such deliveries the lowest rating received on shipments within the accumulated total. These acts constituted wilful violations of the Order.

Tyne Co. also violated Priorities Regulation No. 3 by placing duplicate orders and by failing to designate the exact tonnage to which each rating was applicable. These acts constituted wilful violations of Priorities Regulation No. 3.

These violations of Priorities Regulation No. 3 and Supplementary Order M–21–b have hampered and impeded the war effort of the United States and made it necessary to withdraw all priorities assistance and allocations of scarce materials from those persons for a period of time. In view of the foregoing, *It is hereby ordered,* That:

§ 1010.243 *Suspension Order S–243.* (a) Deliveries of material to John J. Tyne, Sr., John J. Tyne, Jr., Nicholas Hermes and Thomas J. Fogarty, their successors and assigns, and each and all of them, individually, or doing business as a co-partnership, in their own names or in the name of Tyne Co., Illinois Ordnance Works, or any other individual, partnership, trade or corporate names, either on their own account or on behalf of others, shall not be accorded priority, directly or indirectly, over deliveries under any other contract or order, and no preference rating shall be assigned, applied or extended, directly or indirectly, to such deliveries by means of preference rating certificates, preference rating orders, general preference orders or any other orders or regulations of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations;

(b) No allocation shall be made to John J. Tyne, Sr., John J. Tyne, Jr., Nicholas Hermes and Thomas J. Fogarty, their successors and assigns, and each and all of them, individually, or doing business as a co-partnership, in their own names or in the name of Tyne Co., Illinois Ordnance Works, or any other individual, partnership, trade or corporate name, either on their own account or on behalf of others, of any material, the supply or distribution of which is governed by any order of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(c) Nothing contained in this order shall be deemed to relieve John J. Tyne, Sr., John J. Tyne, Jr., Nicholas Hermes and Thomas J. Fogarty from any restriction, prohibition, or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operations, except in so far as the same may be inconsistent with the provisions hereof.

(d) This order shall take effect on February 15, 1943, and shall expire on May 15, 1943, at which time the restrictions contained in this order shall be of no further effect.

Issued this 13th day of February 1943.

CURTIS E. CALDER,
Director General for Operations.

[F.R. Doc. 43–2444; Filed, February 15, 1943; 10:09 a. m.]

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Regulation 3 as Amended Feb. 16, 1943]

UNIFORM METHOD OF APPLICATION AND EXTENSION OF PREFERENCE RATING

§ 944.23 *Priorities Regulation 3*—(a) *Definitions.* For the purposes of this regulation:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Material" means any commodity, equipment, accessory, part, assembly or product of any kind.

(3) "Assignment" of a preference rating means the granting to any person, by order or certificate issued by or under the authority of the Director General for Operations, of the right to use such rating.

(4) "Application" of a preference rating means the use of the rating by the person to whom it is initially assigned by or under the authority of the Director General for Operations, and includes the initial issuance by any governmental agency, under authority of the Director General for Operations, of a preference rating certificate rating a delivery to be made directly to such agency.

(5) "Extension" of a preference rating means the use of the rating by any person to whom it is applied or extended by another person.

(b) *General provisions.* (1) Except to the extent otherwise provided in Priorities Regulation No. 11 (§ 944.32) with respect to persons required or permitted to qualify under the production requirements plan, any person may apply a preference rating assigned to him by any preference rating certificate or preference rating order issued to him in his name or as one of a class, and any person may extend any rating which has been applied or extended to deliveries to be made by him, subject to the provisions of this regulation.

(2) A preference rating may be applied by the person to whom it is assigned only to the specific quantities and kinds of material authorized, or to the minimum required amounts of material when no specific quantities are authorized. Any rating which has been applied or extended by others to deliveries to be made by a person may, subject to the provisions of this regulation, be extended by such person in order to obtain not more than the same amount and kind of material (except as specified in paragraph (c) (3) of this regulation) which he has delivered or is required to deliver pursuant to such rating.

(3) No person shall duplicate, in whole or in part, purchase orders which he has placed with one or more suppliers for delivery of material to which he has applied or extended a rating, in such manner that the amount of the material ordered exceeds the amount to which he is authorized to apply or extend the rating, even though he intends to cancel or reduce his purchase orders to the authorized amount prior to completion of delivery.

(c) *Extension of ratings.* The following provisions shall be applicable to all extensions of preference ratings notwithstanding any inconsistent provisions of the preference rating certificate or preference rating order assigning the rating, except to the extent otherwise provided in Priorities Regulation No. 11 (§ 944.32) with respect to persons required or permitted to qualify under the production requirements plan. No preference rating may be extended to the delivery of any material except:

(1) Material which will itself be delivered by the person extending the rating on a delivery bearing the rating which is being extended, or which will be physically incorporated into material to be so delivered, including the portion of such material normally consumed or converted into scrap or byproducts in the course of processing; or

(2) Material which is required to replace in inventory material so delivered or incorporated. Material shall not be deemed to be required if the delivery can be made and a practicable working minimum inventory of such material still retained; and if, in making delivery, the inventory is reduced below such minimum, the rating may be extended to replace such material only to the extent necessary to restore the inventory to such minimum: *Provided, however,* That the material ordered for replacement must be substantially the same as the material delivered or incorporated in the material delivered, subject only to minor variations in size, shape or design or substitutions of less scarce materials, which in any case do not substantially alter the purpose for which the same is to be used; or

(3) Repair, maintenance and operating supplies, subject to the following conditions and limitations:

(i) The amount of maintenance, repair and operating supplies obtained by any person under this regulation and under any preference rating ("P") order (except P–100) assigning a rating to such person shall not, in the aggregate, exceed during any period the limit, if any, specified in such preference rating order for use of the rating thereby assigned;

(ii) The cost of all maintenance, repair and operating supplies obtained by any other person by extension of a rating shall not exceed in any month ten percent of the cost of materials described in subparagraphs (1) and (2) of this paragraph (c) to which the same grade of rating is extended during the same month (or, if such materials are obtained without preference rating assistance, to which the same grade of rating could be extended, during such month if priorities assistance were needed);

(iii) The cost of maintenance, repair and operating supplies consisting of metals in any of the forms listed on the Metals List attached to Priorities Regulation No. 11 (§ 944.32) to which the rating is extended in any month shall not in any event exceed two and one-half percent of the cost of materials described in said subparagraphs (1) and (2) to which the same grade of rating is extended during the same month (or, if such materials are obtained without preference rating assistance, to which the same grade of rating could be extended during such month if priorities assistance were needed);

(iv) The term "maintenance, repair and operating supplies" as used in this subparagraph (3) shall include only those supplies which are actually required for directly processing the material described in subparagraph (1) or (2) above of this paragraph (c) or for maintenance or repair of production machinery and equipment used in such processing. It does not include any of the following regardless of whether normally carried as operating supplies according to established accounting practices:

(*a*) Materials for maintenance or repair of buildings.

(*b*) Fabricated containers (in knock-down or set-up forms, whether assembled or unassembled), required for packaging products to be shipped or delivered.

(*c*) Printed matter, stationery and office supplies.

(*d*) Paper, paperboard and products manufactured therefrom; molded pulp products.

(*e*) Fuel or electric power.

(*f*) Office machinery or office equipment.

(*g*) Clothing, shoes or other wearing apparel, if made of leather or textiles, except that the following types may be included in operating supplies when specially designed and used to furnish protection against specific occupational hazards (other than weather):

(*1*) Asbestos clothing.

(*2*) Safety clothing impregnated or coated for the purpose of making the same resistant against fire, acids, other chemicals or abrasives.

(*3*) Safety industrial rubber gloves and hoods and lineman's rubber gloves and sleeves.

(*4*) Gauntlet type welders' leather gloves and mittens, and electricians' leather protector or cover gloves.

(*5*) Other safety leather gloves or mittens, but only if steel stitched or steel reinforced.

(*6*) Safety industrial leather clothing other than gloves or mittens.

(*7*) Metal mesh gloves, aprons and sleeves.

(*8*) Plastic and fibre safety helmets.

(*h*) Materials for plant expansion or plant construction.

(v) In cases where the material to be processed is furnished by the customer, the cost thereof to the customer shall, for the purposes of this paragraph (c) (3), be taken instead of cost to the processor and the month in which the processing order is placed shall be taken in lieu of the month in which the material to be processed is ordered.

A person may not extend a rating to any materials in excess of the quantities specified in this paragraph (c) nor to materials for plant improvement, expansion or construction, to machine tools or other capital equipment, to business machines whether purchased or leased, or to maintenance, repair or operating supplies other than those specified above in subparagraph (3) of this paragraph (c).

(d) *Method of application or extension.* (1) Any person authorized to apply or extend preference ratings may do so:

(i) On a written contract or purchase order, by endorsing on, or attaching to, each contract or purchase order placed by him to which the rating is to be applied or extended, a certification in substantially the following form signed manually or as provided in Priorities Regulation No. 7 (§ 944.27) by an official duly authorized for such purpose:

CERTIFICATION

The undersigned purchaser hereby represents to the seller and to the War Production Board that he is entitled to apply or extend the preference ratings indicated opposite the items shown on this purchase order, and that such application or extension is in accordance with Priorities Regulation No. 3 as amended, with the terms of which the undersigned is familiar.

(Name of Purchaser and PRP Certificate No. if Purchaser is a PRP Unit)	(Address)
By _____ (Signature and Title of Duly Authorized Officer)	(Date)

(ii) On a purchase order placed by telegraph, by including in the telegram the following certification: "Ratings indicated are certified pursuant to Priorities Regulation No. 3." The requirements for manual signature or authorization under Priorities Regulation No. 7 (§ 944.27) will be satisfied in such case if the copy of the outgoing telegram retained by the person placing the order is signed or authorized in the manner provided in that regulation.

(iii) On a purchase order placed by telephone and requiring shipment within seven days, by stating to the supplier at the time of placing the order the substance of the certification set forth in subparagraph (ii) of this paragraph (d) (1); provided, however, in such case, that the person making the statement is an official duly authorized to make such certification, and the person making the statement furnishes to the supplier within seven days after placing the purchase order written confirmation of such order, bearing a certification of such preference rating substantially in the form prescribed by subparagraph (i) of this paragraph (d) (1). No preference rating received by telephone shall be extended by the supplier until receipt by him of the written certification herein required. In case of failure to receive written certification within the seven days' period herein prescribed, the supplier shall not accept any other order from, or deliver any additional material of any kind to, the purchaser until such written certification is furnished. On or before the fifteenth day of each month, any supplier who has received in the prior month a preference rating applied or extended by telephone shall notify the War Production Board, Compliance Division, of any case in which a purchaser has failed to furnish to him the written certification when due.

(iv) The person receiving the certification and rating shall be entitled to rely on such representation, unless he knows or has reason to believe it to be false. Each person applying or extending a rating must maintain at his regular place of business all documents, including purchase orders and preference rating orders and certificates, upon which he relies as entitling him to apply or extend such rating, segregated and available for inspection by representatives of the War Production Board, or filed in such manner that they can be readily segregated and made available for such inspection. In addition thereto, each person applying or extending a rating shall execute and file with the War Production Board all reports and questionnaires required by the applicable preference rating certificate or preference rating order and such other reports and questionnaires as said Board shall from time to time request.

(2) Such certification may be used in lieu of any other form of certification required by the terms of any regulation, preference rating order or preference rating certificate (including, without limitation, the instructions accompanying Forms PD–1A, PD–3A and PD–25A) as a means of applying or extending a preference rating and in lieu of furnishing any copy of any preference rating order required thereby; except that the provisions of Priorities Regulation No. 9 (§ 944.30) with respect to the method of applying (but not extending) preference ratings covering certain types of exports must be complied with when ratings are applied pursuant to that regulation.

(3) Notwithstanding the requirements of any applicable preference rating order or certificate,

(i) A person may defer extending any rating for a period of not more than three months after he becomes entitled to extend the same;

(ii) Ratings of the same grade assigned by different preference rating certificates or orders may be combined and extended to a single delivery; and

(iii) Ratings of different grades, whether assigned by the same or different preference rating certificates or orders, may be extended to deliveries under a single purchase order provided the amount of each material to which a particular grade of rating is extended is shown either as a separate item, or on a percentage basis where the material involved is of such type and in such quantities that the supplier can readily determine, from percentage figures alone, the exact effect of the extension of the rating on his production and delivery schedule. To the extent necessary to avoid production or delivery of material in quantities smaller than the minimum commercially practicable, items to which ratings of different grades might be extended may be combined and the rating of the lowest grade extended to the total production or delivery.

(4) In addition to complying with the foregoing requirements of this paragraph (d), any person applying or extending a preference rating shall include on his purchase order or contract such information (except designation of the number or serial number of the preference rating certificate or preference rating order assigning the rating) as may be required by the terms of any applicable order of the Director General for Operations and which the person placing the purchase order is able to furnish.

(e) *Applicability of other restrictions.* Except as expressly otherwise provided in paragraphs (c) and (d) of this regulation, the application or extension of any rating shall be subject to any applicable restrictions contained in any order of the Director General for Operations assigning the preference rating in question or regulating transactions in the material involved, including, without limitation, restrictions as to the kind and amount of material to which preference ratings may be applied or extended, requirements of countersignature or other written approval of particular transactions, and restrictions on the use of material.

(f) *Effect on existing certificates and orders.* All existing forms of preference rating certificates issued by or under authority of the Director of Priorities, the Director of Industry Operations or the Director General for Operations are continued in full force and effect, and additional certificates on such forms may continue to be issued by the persons now or hereafter authorized to issue the same until such authority is revoked or amended, subject to the provisions of this and other regulations of the Director General for Operations. All certificates and all existing orders of the Director of Priorities, the Director of Industry Operations and the Director General for Operations are to be deemed amended by this regulation only where and to the extent that the provisions of this regulation indicate that it is to control.

Issued this 16th day of February 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–2538; Filed, February 16, 1943; 10:48 a. m.]

PART 3033—PORTLAND CEMENT

[Limitation Order L–179 as amended Feb. 16, 1943]

The fulfillment of requirements for the defense of the United States has made imminent a shortage in the supply of portland cement for defense, for private account and for export; and the following order is deemed necessary and appropriate to protect the public interest and to promote the national war effort:

§ 3033.1 *General Limitation Order L–179*—(a) *Restrictions*—(1) *Manufacture.* On and after twenty days subsequent to August 3, 1942, no person shall manufacture any portland cement except portland cement which conforms with one or more of the following specifications as such specifications exist on August 3, 1942:

(i) Federal specifications: Emergency Alternate Federal Specification for cement; Portland–E–SS–C–191b, dated June 5, 1942;

(ii) Federal specifications: Emergency Alternate Federal Specification for cement; Portland–E–SS–C–201a, dated June 5, 1942;

(iii) Federal specifications: Emergency Alternate Federal Specification for cement; Portland E–SS–C–206a, dated June 5, 1942;

(iv) American Society for Testing Materials specifications: Emergency Alternate Specification for Portland Cement A. S. T. M. Designation EA–C 150–Type I, dated June 6, 1942;

(v) American Society for Testing Materials specifications: Emergency Alternate Specification for Portland Cement A. S. T. M. Designation EA–C 150–Type III, dated June 6, 1942;

(vi) American Society for Testing Materials specifications: Emergency Alternate Specifications for Portland Cement A. S. T. M. Designation EA–C 150–Type II, dated June 6, 1942,

(2) [Revoked February 16, 1943]

(3) *Requirements for testing.* A purchaser of portland cement may require tests of such cement, but such tests may only be made in accordance with "Federal Specifications: Emergency Alternate Federal Specifications for Cement; Portland—Dated June 5, 1942, E–SS–C158a" or "American Society for Testing Materials Specifications C 77–40."

(b) *Specific exemptions.* The provisions of this order shall not apply to portland cement manufactured and stored pursuant to orders or contracts for any cement:

(1) To be used in the following named projects under the direction or control of the United States Bureau of Reclamation:

(i) Boise Project—Anderson Ranch Dam—Boise, Idaho;

(ii) Central Valley Project—Kennett Division—Redding, California;

(iii) Central Valley Project—Friant Division—Friant, California;

(iv) Davis Dam Project—Kingman, Arizona;

(2) To be used in the following project under the direction or control of United States War Department, U. S. Army Engineer Corps:

(i) Norfolk Dam—Arkansas.

(3) To be used in the following projects under the direction or control of the Tennessee Valley Authority:

(i) Fontana Dam—Fontana Dam, North Carolina;

(ii) Douglas Dam—Rural Station, Jefferson City, Tennessee;

(iii) Fort Loudon Dam—Lenoir City, Tennessee;

(iv) Kentucky Dam—Gilbertsville, Kentucky;

(v) Apalachia Dam—Farner, Tennessee;

(vi) Ocoee No. 3 Dam—McFarland, Tennessee;

(4) To be used in oil wells under conditions of high temperature, such cement being commonly known as "oil well cement";

(5) To be used pursuant to the specific authorization of the Director General for Operations.

(c) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(d) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and

inspection by duly authorized representatives of the War Production Board.

(e) *Reports.* Each person to whom this order applies shall file with the War Production Board such reports and questionnaires as said Board shall from time to time specify.

(f) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(g) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of appeal.

(h) *Applicability of other orders.* The provisions of Priorities Regulation No. 1 (§ 944.14, *Inventory restrictions*) shall not apply to this order and all transactions affected thereby. Insofar as any other order issued by the Director General for Operations, or to be issued by him after August 3, 1942, limits the use of any material to a greater extent than the limits imposed by this order the restrictions of such other order shall govern, unless otherwise specified herein.

(i) *Communications.* Reports to be filed and other communications concerning this order shall be addressed to the War Production Board, Building Materials Division, Washington, D. C., Ref.: L–179.

Issued this 16th day of February 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43–2537; Filed, February 16, 1943; 10:48 a. m.]

PART 3168—FANS AND BLOWERS

[General Limitation Order L–280]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain critical materials and facilities used in the manufacture of fans and blowers for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 3168.1 *General Limitation Order L–280*—(a) *Definitions.* For the purposes of this order:

(1) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(2) "Fan or blower" means any new device or machine which moves, compresses or exhausts air or other gases by centrifugal, rotary or axial means; except (i) wall type propeller fans having a blade diameter of less than 17 inches; (ii) ceiling, air circulator, desk, wall bracket, and portable window fans, and pedestal type fans of a portable nature; (iii) fans and blowers manufactured by a person solely for incorporation into other machinery or devices (including pulverizers, stokers, and boilers) also manufactured by him; (iv) propeller type fans for use as a part of internal combustion engines; and (v) critical turbo-blowers as defined by Limitation Order L–163, as amended.

(3) "Manufacturer" means any person who engages in the fabrication or assembly of fans or blowers, and includes sales and distribution outlets controlled by any such person.

(4) "Dealer" means any person who purchases fans or blowers for resale; except sales and distribution outlets controlled by a manufacturer, and except persons who purchase fans or blowers solely for resale as a component part of a boiler, pulverizer or stoker.

(5) "Delivery" includes delivery of a fan or blower from one affiliate to another or from one branch, division or section of a single enterprise to another branch, division or section of the same enterprise, where the recipient affiliate, branch, division or section will use the fan or blower.

(6) "New" as applied to a fan or blower means any fan or blower which has not been delivered to a purchaser for use.

(7) "Approved order" means:

(i) Any order for a fan or blower bearing a preference rating of AA–5 or higher; or

(ii) Any order for a fan or blower which the Director General for Operations approves pursuant to subparagraph (b) (3) hereof.

(b) *Restrictions on acceptance of orders for, and delivery of fans and blowers.* (1) After February 28, 1943, no manufacturer or dealer shall accept any order for a fan or blower unless the order is an approved order; and after March 31, 1943, no manufacturer shall deliver any fan or blower in fulfillment of any order unless the order is an approved order.

(2) The limitations and restrictions of paragraph (b) (1) above shall not apply to any order for repair parts (i) in an amount not exceeding $500 for any single fan or blower, or 50% of the original sales price of the fan or blower to be repaired, whichever is less in any particular case; or (ii) in any amount, for the repair of a fan or blower when there has been an actual breakdown or suspension of operations thereof because of damage, wear and tear, destruction or failure of parts or the like, and the essential repair and maintenance parts are not otherwise available.

(3) Any manufacturer or dealer may apply for authorization to deliver orders on his books which are not approved orders by filing a report thereof in duplicate on Form PD–795, together with a statement of the percentage of completion of each such order. The Director General for Operations may thereupon approve any such orders regardless of the rating thereof, or may rerate any such orders in order to constitute them approved orders.

(4) No manufacturer shall accept any order for a fan or blower if he knows or has reasonable cause to believe that he will be unable to make delivery on or before the delivery date specified in the order. Any order received by a manufacturer, specifying a delivery date which the manufacturer knows or has reasonable cause to believe he will be unable to meet, shall be returned by the manufacturer to the proposed purchaser within twenty days after the receipt thereof.

(c) *Delivery schedules.* (1) After February 28, 1943, no manufacturer shall deliver any fan or blower unless the same has been included in a delivery schedule theretofore approved by the Director General for Operations in accordance with the provisions of subparagraph (2) below.

(2) On or before the 24th day of February 1943, and on or before the 18th day of each succeeding calendar month, every manufacturer of fans and blowers shall file a report on Forms PD–795 and 796, giving such information as shall be required thereby, including his delivery schedule for fans and blowers for the two calendar months immediately following. The delivery of all fans and blowers shown on such schedule as proposed to be made in such two calendar months shall be deemed to be approved by the Director General for Operations upon the receipt of such Forms PD–795 and 796 by the War Production Board, unless the Director General for Operations shall otherwise direct. The Director General for Operations may at any time revoke such approval as to any or all fans or blowers so listed for delivery, change the schedule of deliveries or prescribe a new schedule, allocate any order held by any manufacturer to any other manufacturer, or direct the delivery of any fan or blower, in production or completed, to any other person at the established price and terms. No manufacturer shall change the schedule of deliveries as so approved, changed or prescribed by the Director General for Operations, without specific authorization of the Director General for Operations.

(d) *Schedules of specifications.* The Director General for Operations may at any time, and from time to time, issue schedules (by amendments to this order) establishing required specifications for fans or blowers. Upon and after the date of issuance of any such schedule of specifications, or such other date as shall be prescribed therein, no person shall accept any order for, fabricate, assemble, sell, deliver, accept delivery of or use any fans or blowers or parts therefor except in accordance with the terms of such schedule. As used in this paragraph the term "required specifications" shall mean specifications fixed for the fabrication, assembly, production, construction or other manufacture of fans or blowers and designed to eliminate, reduce, or conserve the use of critical materials in fans or blowers or parts, by simplifying or standardizing the fans or blowers; specifying the operating conditions under which they may be used; restricting the numbers of sizes, types, models, or kinds produced or the kinds or quantities of materials used by a manufacturer; or requiring substitution of less critical materials for more critical materials; or by establishing other re-

quirements for the manufacture, sale, delivery or use of such fans or blowers.

(e) *Miscellaneous provisions* — (1) *Appeals.* An appeal may be taken either by a manufacturer or by his proposed purchaser from any provision of this order or from any action taken hereunder by the Director General for Operations. Any such appeal shall be made by filing a letter, in triplicate, referring to the particular provision or action appealed from, and stating fully the grounds of the appeal.

(2) *Records and reports.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales. All such persons shall execute and file with the War Production Board, such reports and questionnaires as the Director General for Operations shall request from time to time.

(3) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(4) *Communications.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to War Production Board, General Industrial Equipment Division, Washington, D. C., Ref.: L-280.

Issued this 16th day of February 1943.

CURTIS E. CALDER,
Director General for Operations.

[F. R. Doc. 43-2539; Filed, February 16, 1943; 10:48 a. m.]

Chapter XI—Office of Price Administration

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[Ration Order 5C,[1] Amendment 22]

MILEAGE RATIONING: GASOLINE REGULATIONS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Subparagraph (12) of paragraph (a) of § 1394.7551 is amended, and a new paragraph (v) is added to § 1394.8352; as set forth below:

Definitions

§ 1394.7551 *Definitions.* * * *

(a) * * *

(12) "Gasoline" means any petroleum product either commonly known or sold as gasoline (including casinghead and natural gasoline) or having a flash point below 100° Fahrenheit (closed cup test, ASTM D-56-36), except:

(i) Fuel oil as defined in Ration Order No. 11, naphthas, aromatics, synthetic rubber raw materials, solvents or specialties, not used or blended for use as fuel in internal combustion engines. Any quantity of the foregoing products which is used or blended for use as fuel in internal combustion engines shall be deemed to be gasoline when the product so used or blended is commonly known or sold as gasoline or has a flash point below 100° Fahrenheit (closed cup test, ASTM D-56-36);

(ii) Any finished petroleum product having an octane rating of 85 or more (ASTM D-42T) or any component thereof used for the propulsion of aircraft. Any quantity of such a product which is used for a purpose other than the propulsion of aircraft shall be deemed to be gasoline when the product so used is commonly known or sold as gasoline or has a flash point below 100° Fahrenheit (closed cup test, ASTM D-56-36), and

(iii) Liquefied petroleum gases, regardless of use.

* * * * *

Effective dates

§ 1394.8352 *Effective dates of amendments.* * * *

(v) Amendment No. 22 (§ 1394.7551 (a) (12)) to Ration Order No. 5C shall become effective March 8, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421 and 507, 77th Cong.; W.P.B. Dir. No. 1, Supp. Dir. No. 1Q, 7 F.R. 562, 9121, E.O. 9125, 7 F.R. 2719)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2493; Filed, February 15, 1943; 12:29 p. m.]

[MPR 326]

PART 1440—PROCESSED FOOD COMMODITIES

MACARONI PRODUCTS AND NOODLE PRODUCTS

This Maximum Price Regulation No. 326 is issued by the Price Administrator in order to establish maximum prices for macaroni products and noodle products at levels which are generally fair and equitable and which will aid in stabilizing the cost of living. The statement of considerations involved in the issuance of this regulation has been issued and filed with the Division of the Federal Register.*

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, Maximum Price Regulation No. 326 is hereby issued.

AUTHORITY: §§ 1440.1 to 1440.15, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

§ 1440.1 *Prohibition against dealing in macaroni products and noodle products above maximum prices.* (a) On and after February 20, 1943, regardless of any contract or other obligation, no person shall sell or deliver any macaroni product or noodle product at a price higher than the maximum prices established for it by this regulation. No person shall buy or receive any macaroni product or noodle product in the course of trade or business at a higher price than the maximum prices established for it by this regulation. Nor shall any person agree, offer, solicit, or attempt to do any of these things.

(b) However, prices lower than maximum prices may be charged and paid.

§ 1440.2 *Producer's maximum prices for macaroni products and noodle products.* The producer's maximum price per dozen or other unit for each variety, type, brand, container size and style of macaroni products and noodle products to each class of purchasers thereof shall be:

(a) The producer's maximum price per dozen or other unit for such variety, type, brand, container size and style to each class of purchasers calculated in accordance with the General Maximum Price Regulation;[1] plus

(b) The increase in the cost of the farinaceous and egg ingredients and packaging materials thereof determined as follows:

(1) The cost per dozen or other unit as of February 20, 1943, of the farinaceous and egg ingredients and packaging materials figured at the ceiling prices of the producer's principal supplier to the class of purchasers to which the producer belongs; minus

(2) The sum of the weighted average actual cost of each of the farinaceous and egg ingredients and packaging materials per dozen or other unit used to produce the same commodity during March 1942.

"Cost" as used in subparagraph (1), if the ceiling price of the producer's supplier is not a delivered price, means the ceiling price plus cost of delivery of purchases in a usual amount to the producer's customary receiving point, from the customary shipping point by the usual mode of transportation.

A producer's "weighted average actual cost" as used in subparagraph (2) means his total cost of each farinaceous or egg ingredient or packaging material figured on a delivered basis at his factory, divided by the number of units used in producing all his macaroni products and noodle products.

Maximum prices as calculated under this regulation resulting in a fraction of a cent shall be reduced to the nearest lower cent if the fraction is less than one-half cent and shall be increased to the nearest higher cent if the fraction is one-half cent or more.

(c) *New container sizes and styles.* (1) The maximum price per dozen or other unit for a variety, type and brand of macaroni products or noodle products packed in any container size or style which the producer did not sell during March 1942 shall be calculated as follows: He shall

(i) *Determine the base container.* If the producer sold the same variety, type and brand of macaroni products or noodle products during March 1942, but only in other container sizes or styles, he shall first determine the most similar container style in which he is able to calculate a maximum price for that variety, type and brand under this regulation (even though he no longer sells that

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 9135, 9787, 10147, 10016, 10110, 10338, 10706, 10786, 10787, 11009, 11070; 8 F.R. 179, 274, 369, 372, 607, 565, 1028, 1202, 1203, 1365, 1282, 1366, 1318, 1588.

[1] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5192, 5276, 5365, 5445, 5484, 5565, 5775, 5783, 5784, 6007, 6058, 6081, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317.

container style). From that container style he shall choose the nearest size, which is 50% or less larger, or if there is no such size, 50% or less smaller than the new size (even though he no longer sells those sizes). This will be the "base container". If there is no such smaller size, he shall go to the next most similar container style and proceed in the same manner to find the base container.

NOTE: In most cases "the most similar container style" will be merely the container style which the producer is adding to or replacing, like a cellophane bag which he may be replacing with a carton. Where there has been only a size change, "the most similar container style" will of course, be the same container style. This is also true in the reverse situation; where there has been a change only in container style, the "nearest size" will be the same size.

(ii) *Find the base price.* The producer shall take as the "base price" his maximum price for the variety, type and brand of macaroni products or noodle products when packed in the base container. However, if this maximum price is a price delivered to the purchaser or to any point other than the producer's factory, the producer shall first convert it to a base price f. o. b. producer's factory by deducting whatever transportation charges were included in it.

(iii) *Deduct the container cost.* Taking his base price f. o. b. factory, the producer shall then subtract the direct cost of the base container. "Direct cost of the container" means the net cost, at the producer's factory, of the container, label and proportionate part of the outgoing shipping case, but it does not include costs of filling, closing, labeling or packing.

(iv) *Adjust for any difference in contents.* The figure obtained by this deduction shall then be adjusted, in the case of a size change, by dividing it by the number of ounces or other units in the base container and multiplying the result by the number of the same units in the new container.

(v) *Add the new container cost to get the price f. o. b. factory.* Next, the producer shall add to the adjusted figure the "direct cost of the container" in the new size and style. If his maximum price for the commodity in the base container is an f. o. b. factory price, the resulting figure is the producer's maximum price, f. o. b. factory.

(vi) *Convert to a maximum delivered price, if the maximum price for the base container is on a delivered basis.* If the producer's maximum price for the macaroni products or noodle products in the base container is a delivered price, he shall figure transportation charges to be added, as follows: The producer shall take the transportation charges which he first deducted to get his base price and adjust them in exact proportion to the difference in shipping weight. If for any reason the macaroni products or noodle products in the new container will move under a different freight tariff classification, the producer shall figure his transportation charges (by the same means of transportation and to the same destination) on the basis of the new shipping weight, but at the rate in effect for that freight tariff classification during March 1942. Increases in tariff rates or transportation taxes made since March 31, 1942, shall not be taken into account. (Similar principles shall apply where shipping volume is the measure of the transportation charge.) The producer shall then add these transportation charges to his f. o. b. factory price for the commodity in the new container. The resulting figure is the producer's maximum delivered price.

(d) The maximum price for each variety, type, brand, container size and style of macaroni products and noodle products for a producer who owns more than one factory shall be determined separately for each factory.

§ 1440.3 *Inability to fix prices under § 1440.2.* (a) If the producer's maximum price for any macaroni product or noodle product cannot be determined under § 1440.2, his maximum price shall be the maximum price, as determined under this regulation, of a comparable commodity produced by him or, if he did not produce a comparable commodity, by his most closely competitive producer.

(b) If the producer's maximum price for any macaroni product or noodle product cannot be determined under § 1440.2 or under paragraph (a) of this section, the maximum price shall be a price determined after specific authorization from the Office of Price Administration, Washington, D. C., on application setting forth (1) a detailed description of the variety, type, brand, container size and style; and (2) a statement of the facts which differentiate it from the most similar product for which he has determined a maximum price identifying and describing the similar product and stating the maximum price determined for it. When authorization is given, it will be accompanied by instructions for determining the maximum price.

§ 1440.4 *Customary allowances and discounts.* No producer shall change his customary allowances, discounts or trade practices unless such change results in the same or a lower net price.

§ 1440.5 *Transfer of business or stock in trade.* If the business assets or stock in trade of any producer are sold or otherwise transferred on or after February 20, 1943, and the transferee carries on the business, the maximum prices of the transferee shall be the same as those to which his transferor would have been subject if no transfer had taken place, and his obligation to keep records to verify those prices shall be the same. The transferor shall either preserve or make available or turn over to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions contained in this Regulation.

§ 1440.6 *Evasion.* The price limitations set forth in this regulation shall not be exceeded by direct or indirect methods in connection with an offer, solicitation, agreement, sale, delivery, purchase or receipt of or relating to any macaroni product or noodle product alone or in conjunction with any other commodity, or by way of any service, transportation, or other charge or discount, premium or other privilege, or by tying-agreement or other understanding or otherwise.

§ 1440.7 *Enforcement.* Any person violating a provision of this regulation is subject to the criminal penalties, civil enforcement actions and suits for treble damages provided by the Emergency Price Control Act of 1942, as amended.

§ 1440.8 *Records and reports.* Every producer who makes sales of any macaroni product or noodle product covered by this regulation shall (a) as long as the Emergency Price Control Act of 1942, as amended, continues in effect, preserve for examination by the Office of Price Administration all his existing records which were the basis for the computations required by § 1440.2; and (b) preserve for the same period all records of the same kind as he has customarily kept relating to the prices charged for all macaroni products and noodle products sold on or after February 20, 1943; and (c) file with his nearest State or district office of the Office of Price Administration, within thirty days after the effective date of this regulation a statement showing for each variety, type, brand, container size and style, (1) the name of each farinaceous and egg ingredient and packaging material and its maximum price as of February 20, 1943, per unit of purchase. (If the maximum price is f. o. b. shipping point, show the shipping point and freight addition); (2) weighted average actual cost per unit of purchase of each farinaceous and egg ingredient and packaging material used in producing the same commodity in March 1942 (if the cost is f. o. b. shipping point, show freight addition); (3) the per dozen or other unit cost of each farinaceous and egg ingredient and packaging material figured at maximum prices as stated in (1) above; (4) the per dozen or other unit cost of each farinaceous and egg ingredient and packaging material figured at March cost as stated in (2) above; (5) the result of subtracting the figures obtained in (4) from those obtained in (3); (6) the maximum price for the commodity computed in accordance with the General Maximum Price Regulation; and (7) the result of adding the figures obtained in (5) to those stated in (6) which result shall be the producer's new maximum price for that commodity, and (d) as long as the Emergency Price Control Act of 1942, as amended, continues in effect, preserve at each factory a true copy of each such statement filed with the Office of Price Administration for examination by any person during ordinary business hours. Any producer who claims that substantial injury would result to him from making any such statement to any other person may file a copy of the statement with the State or district office of the Office of Price Administration nearest to each of his factories. The information contained in the statement will not be published or disclosed unless it is determined that the withholding of the information is contrary to the purposes of this regulation.

§ 1440.9 *Petition for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.[2]

§ 1440.10 *Geographical applicability.* The provisions of this regulation shall be

[2] 7 F.R. 8961.

applicable only to the forty-eight states of the United States and the District of Columbia.

§ 1440.11 *Applicability of the General Maximum Price Regulation and Maximum Price Regulation No. 262.*[3] The provisions of this regulation supersede the provisions of the General Maximum Price Regulation with respect to sales and deliveries of macaroni products and noodle products for which maximum prices are established by this regulation. They also supersede the provisions of Maximum Price Regulation No. 262 with respect to egg noodles.

§ 1440.12 *Export sales.* The maximum prices at which a person may export macaroni products and noodle products shall be determined in accordance with the provisions of the Revised Maximum Export Price Regulation[4] issued by the Office of Price Administration.

§ 1440.13 *Definitions.* (a) When used in this regulation the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organization, group of persons, legal successors or representatives of any of the foregoing and includes the United States, any of its agencies, any other government, or any of its political subdivisions and any agency of any of the foregoing.

(2) "Producer" means a person operating an establishment producing, manufacturing or processing a macaroni product or noodle product.

(3) "Macaroni products" means the class of food each of which is prepared by drying formed units of dough made from semolina, durum flour, farina, flour, or any combination of two or more of these, with water and with or without one or more of certain optional ingredients such as milk, whole wheat, soy flour, vegetables and salt and as further defined in the proposed order for Definitions or Standards of Identity of macaroni products of the Food and Drug Administration as printed in the FEDERAL REGISTER on December 22, 1942, pages 10728 to 10734 inclusive. Plain noodles shall be deemed to be a macaroni product for the purposes of this regulation.

(4) "Noodle products" means the class of food each of which is prepared by drying formed units of dough made from semolina, durum flour, farina, flour, or any combination of two or more of these, with liquid eggs, dried eggs, egg yolks, frozen yolks, or any combination of two or more of these with or without water and with or without one or more of certain optional ingredients such as milk, whole wheat, soy flour, vegetables and salt and as further defined in the proposed order for Definitions or Standards for Identity of noodle products of the Food and Drug Administration as printed in the FEDERAL REGISTER on December 22, 1942, pages 10728 to 10734 inclusive.

(5) "Farinaceous ingredient" means semolina, durum flour, farina, or wheat flour.

(6) "Comparable commodity" means a commodity of equal weight and quantity offering fairly equivalent utility and differing in ingredients or packaging materials from the commodity produced in March 1942 by the seller or his most closely competitive seller only by changes to the best possible feasible substitutes for ingredients or packaging materials. A macaroni product shall not be considered comparable to a noodle product.

(7) "The most closely competitive producer" means the producer who:

(i) Sells to the same class of buyer,

(ii) Produces the same or similar quality range of the product,

(iii) Has sold in the past the same kind of macaroni product, or noodle product at approximately the same prices as the producer establishing a maximum price,

(iv) Has used the same marketing methods, and

(v) Is located in the same general area or, if there is no such producer in the same general area, is located in the nearest area.

(b) Unless the context otherwise requires, the definitions of section 302 of the Emergency Price Control Act of 1942, as amended, shall apply to other terms used in this regulation.

§ 1440.14 *Effective date.* This regulation (§§ 1440.1 to 1440.15, inclusive) shall become effective February 20, 1943.

§ 1440.15 *Appendix A.*

EXAMPLE SHOWING METHOD OF COMPUTING NEW CEILING PRICE

Variety---------- Egg noodles.
Type---------- Home style.
Brand---------- X Y Z.
Container size---------- 1 pound.
Container style---------- Cellophane.
Selling unit---------- 1 dozen.

COSTS

	Feb. 20, 1943 ceilings	March 1942 average costs
INGREDIENTS	(1)	(2)
Durum flour per barrel, delivered:		
Per barrel f. o. b. Minneapolis	6.60	5.20
Plus freight to factory	.80	
Total	7.40	
Egg yolks per pound delivered	.46	.32
PACKAGING MATERIAL		
Cellophane bags per M delivered	8.85	8.85
Cellohane tape per roll delivered	.75	.75
Shipping case per M delivered	70.00	60.00
COMPUTATION OF INGREDIENT COST PER POUND		
300 pounds of durum flour	11.3265	7.9592
34-.5 pounds of egg yolks	15.8700	11.0400
Total cost of raw material	27.1965	18.9992
Divided by 299.749 pound net yield cost of raw material per pound	.0907	.0634
NOTE: Shrinkage for purposes of example 5% including filling loss.		
PER DOZEN 1 POUND PACKAGES	(3)	(4)
Ingredients	1.0884	.7608
Cellophane bags (waste allowance, —1)	.1150	.1150
Cellophane tape	.0100	.0100
Shipping case	.0700	.0600
Total cost of ingredients and packaging material per dozen	(3)1.2834	(4).9458
(5)	(3)1.2834 (4)1.9458	
Increased cost of ingredients and packaging material per dozen	.3376	
(6) Plus March 1942 ceiling price	1.25	
(7) Equals new ceiling price	1.5876 or 1.59	

[3] 7 F.R. 9244, 10844; 8 F.R. 262, 273, 437, 973.
[4] 7 F.R. 5059, 7442, 8829, 9000, 10530.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2494; Filed, February 15, 1943; 12:29 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 199 Under § 1499.18 (b) of GMPR]

JOHN SCHUSTER

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1100 *Denial of application for adjustment of maximum prices for domestic malt beverages sold by John Schuster, 825 Market Street, Farrell, Pennsylvania.* (a) The application of John Schuster, 825 Market Street, Farrell, Pennsylvania, filed July 29, 1942 and assigned Docket No. GF3-963, requesting permission to adjust his maximum prices on the domestic malt beverage products of the Pabst Brewing Company, The Simon Pure Brewing Company, The Pilsener Brewing Company and the Kubler Brewing Company. The adjustment is hereby denied.

(b) This Order No. 199 (§ 1499.1100) shall become effective February 15, 1943.

(Pub. Laws 421, 729, 77th Cong.; E.O. 9250, 7 F.R. 7671)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2496; Filed, February 15, 1943; 12:29 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 282 Under § 1499.3 (b) of GMPR]

SHANNON HOSIERY MILLS, INC.

Shannon Hosiery Mills, Incorporated, of Columbus, Georgia, made application for an authorization to determine the maximum price it may charge for its style No. 1500 full-fashioned 45 gauge women's hosiery made of rayon and cotton combination yarn. Due consideration has been given the application and it appears that this hosiery cannot be priced by the seller under § 1499.2 of the General Maximum Price Regulation. For the reasons set forth in the opinion supporting this order, which has been issued simultaneously herewith and has been filed with the Division of the Federal Register, and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 as amended and in accordance with Revised Procedural Regulation No. 1 and § 1499.3 (b) of the General Maximum Price Regulation, issued by the Office of Price Administration, *It is hereby ordered:*

§ 1499.1718 *Approval of maximum price for style No. 2500 women's hosiery made of rayon and cotton combination yarn manufactured by Shannon Hosiery Mills, Incorporated.* (a) On and after February 16, 1943, the maximum price at which Shannon Hosiery Mills, Incorporated, Columbus, Georgia, may sell, deliver and offer for sale style No. 1500 women's hosiery made of rayon and cotton combination yarn shall be $8.75 per dozen, f. o. b. point of shipment. Any

person may buy and receive and offer to buy and receive style No. 1500 at $8.75 per dozen from Shannon Hosiery Mills, Incorporated.

(b) The maximum selling price set forth in paragraph (a) shall be subject to adjustment at any time by the Office of Price Administration.

(c) This Order No. 282 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 282 (§ 1499.1718) shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2498; Filed, February 15, 1943; 12:30 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 283 Under § 1499.3 (b) of GMPR]

NEWMAN'S COFFEE CO.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1719 *Authorization of maximum price for sale of Newman's Blended Coffee, a brand of coffee compound by Newman's Coffee Company to institutions.* (a) On and after February 16, 1943, the maximum price for sales of Newman's Blended Coffee by Newman Coffee Company, having its principal place of business at Billings, Montana shall be 31¢ per pound delivered to institutions.

(b) This Order No. 283 may be revoked or amended by the Price Administrator at any time.

(c) This Order No. 283 (§ 1499.1719) shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2499; Filed, February 15, 1943; 12:30 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Correction to Order No. 233 Under § 1499.3 (b) of GMPR]

INTERSTATE COFFEE CO.

The last sentence in § 1499.1469 (a) (2) is corrected to read as follows:

§ 1499.1469 (a) * * *
(2) * * *

This price shall not include delivery to customer's place of business.

This correction shall be effective as of January 21, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2497; Filed, February 15, 1943; 12:30 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 23 Under Supp. Reg. 15]

BROWN TRUCKING COMPANY

Order No. 23 Under § 1499.75 (a) (3) of Supplementary Regulation No. 15 of the General Maximum Price Regulation—Docket No. GF3-1388.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1323 *Adjustment of maximum prices for contract carrier services sold by the Brown Trucking Company.* (a) The Brown Trucking Company, 456 South Miami Street, Wabash, Indiana, may sell and furnish contract carrier services in connection with the transportation of pulpboard, scrap or waste paper, wooden skids and cores, sizing, starch, used paperboard machinery, machinery and woodpulp, between Wabash, Indiana, and points in Illinois, Ohio and Missouri at prices not exceeding the rates set forth in the schedule of minimum rates, MF-ICC No. 17, filed by Brown Trucking Company with the Interstate Commerce Commission on July 16, 1942, to become effective August 15, 1942.

(b) All requests of the application not granted herein are denied.

(c) This Order No. 23 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 23 (§ 1499.1323) is hereby incorporated as a section of Supplementary Regulation No. 14, which contains modifications of maximum prices established by § 1499.2.

(e) This Order No. 23 (§ 1499.1323) shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2495; Filed, February 15, 1943; 12:29 p. m.]

PART 1340—FUEL

[MPR 323]

ASPHALT AND ASPHALT PRODUCTS

In the judgment of the Price Administrator all asphalt and asphalt products sold in the United States should be placed under one specific dollars-and-cents maximum price regulation as far as possible. In issuing this Maximum Price Regulation No. 323 the Price Administrator has ascertained and given due consideration to the prices of asphalt and asphalt products prevailing between October 1 and October 15, 1941 and has made adjustments for such relevant factors as he has determined and deemed to be of general applicability. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation.

In the judgment of the Price Administrator, the maximum prices established by this regulation are generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942. A statement of the consideration involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, Maximum Price Regulation No. 323, Asphalt and Asphalt Products, is hereby issued.

CONTENTS

AUTHORITY: §§ 1340.351 to 1340.374 inclusive, issued under Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871.

§ 1340.351 *Sales of asphalt and asphalt products at higher than maximum prices prohibited.* (a) On and after February 20, 1943, regardless of any contract or other obligation no person shall sell or deliver and no person shall buy or receive in the course of trade or business any asphalt or asphalt product at prices higher than the maximum prices fixed by this regulation, and no person shall agree, offer, or attempt to do any of these things.

(b) Prices lower than the maximum prices may, of course, be charged and paid.

§ 1340.352 *To what transactions and persons this regulation is applicable*—(a) *What transactions are covered.* This regulation covers all sales and deliveries of asphalt and asphalt products either by refiners, resellers, distributors, roofers, retailers, or by any other persons.

(b) *What persons are covered.* Any person selling asphalt or asphalt products is subject to the regulation. The term "persons" includes any individual, corporation, partnership, association or any other organized group of persons; their legal successors and representatives; the United States or any other government or any political subdivision or any agency of the foregoing.

§ 1340.353 *Maximum bulk prices for standard products*—(a) *Use of reference*

*Copies may be obtained from the Office of Civilian Defense.

points explained. The reference points and prices listed in Tables I and II below are for the sole purpose of determining maximum prices f. o. b. refinery. If the refinery is located at a reference point, then the maximum f. o. b. price for that refinery is the price listed in the table for that reference point. If the refinery is not located at a reference point, then to establish the maximum price on any standard grade of asphalt locate the reference point geographically (air line) closest to the refinery in question; the prices indicated at this reference point are the maximum prices f. o. b. that refinery.

Example: A refiner at Robinson, Illinois wants to determine his maximum price for asphalt cement 100–300 penetration f. o. b. refinery. The map indicates that St. Louis, Missouri is the closest reference point. The table shows that the price is $12.50 per ton for the St. Louis reference point. Therefore, the maximum price f. o. b. the Robinson refinery for this grade of asphalt cement is $12.50.

(b) *Limitation on price of roofing flux and roofing asphalt.* Normally, a seller is permitted to charge his maximum f. o. b. refinery price as determined by Table I or II, even though the laid-down cost to the buyer may exceed what his laid-down cost would have been had he purchased from some other refinery. To this general principle there is one exception, namely, a refiner must make a reduction in his maximum f. o. b. refinery bulk price when all of the following circumstances are present.

(1) The sale is of roofing flux or oxidized asphalt; and

(2) The refinery nearest the destination has a different reference point from the refinery making the shipment; and

(3) The sum of the maximum f. o. b. price at the refinery from which a shipment is made plus the rail freight cost from that refinery to the destination exceeds the sum of the maximum f. o. b. price at the refinery producing roofing flux or oxidized asphalt nearest to that destination plus the rail freight cost from that nearest refinery to that destination.

Under the above circumstances the reduction in his maximum f. o. b. refinery price as determined by Table I or II shall be the amount necessary to make the laid-down cost from the refinery making the shipment the same as it would be from the refinery producing roofing flux or oxidized asphalt nearest the destination. However, the required reduction need never exceed 20% of the maximum f. o. b. refinery price.

For example: A buyer in Wisconsin desires to purchase roofing flux. The refinery nearest to him producing roofing flux uses Chicago as its reference point. Assume that the laid-down cost on the Indiana purchase is $10.50 plus $1.00 freight, or $11.50. Suppose the same buyer wishes to purchase from a Texas refinery. The Texas refinery uses Ft. Worth, Texas, as its reference point; the maximum price for the Texas refinery is $7.50. Assume the freight from the Texas refinery to the same buyer in Wisconsin is $7.00. This would mean a laid-down cost to the buyer of $14.50. To equalize this with the laid-down cost from Indiana of $11.50 would mean a reduction in the f. o. b. Texas refinery price of $3.00. But this is more than 20% of the Texas f. o. b. price of $7.50. Therefore the reduction by the Texas refiner would be $1.50 (20% of $7.50) making his maximum f. o. b. refinery price for the Wisconsin destination $6.00 and the buyer's laid-down cost from the Texas refinery would be $13.00. Reductions in maximum prices for roofing flux and roofing asphalt do not apply when making shipments to destinations in District 1 as defined by the Office of Petroleum Administrator for War.

(c) *Price tables to determine maximum bulk prices f. o. b. refiners for standard grades; exclusive of taxes.*

TABLE I [1]—REFINERIES EAST OF WASHINGTON, OREGON AND CALIFORNIA

[Asphalt cement, Roofing flux, Oxidized asphalt: Price in dollars per net ton of 2,000 lbs. Liquid asphalt: Price in cents per U. S. gallon]

Reference points	Asphalt cement		Liquid asphalt			Roofing flux	Oxidized asphalt	
	Pen. 40–100	Pen. 100–300	S. C. 1–5	M. C. 1–5	R. C. 1–5		110–165 M. P.	165–220 M. P.
New York, N. Y.	$15.00	$14.00	.0575	.0625	.0625	$12.50	$13.50	$14.50
Charleston, S. C.	14.00	13.00	.0550	.0600	.0625	12.25	13.25	14.25
Buffalo, N. Y.	14.00	13.00	.0525	.0575	.0600	11.75	12.75	13.75
(a) Columbus, O. Refinery	15.00	14.00	.0525	.0600	.0625	11.75	12.75	13.75
(b) Columbus, O. Delivered [2]	17.00	16.00	.0600	.0675	.0700	----	----	----
Somerset, Ky.	----	----	.0425	.0525	.0550	----	----	----
Chicago, Ill.	14.00	13.00	.0450	.0575	.0600	10.50	11.50	12.50
St. Louis, Mo.	13.50	12.50	.0425	.0550	.0575	9.00	10.00	11.00
El Dorado, Ark.	10.50	9.50	.0400	.0450	.0475	7.50	8.50	9.50
New Orleans, La.	13.00	12.00	.0500	.0550	.0575	10.50	11.50	12.50
Kansas City, Mo.	10.50	9.50	.0300	.0400	.0425	----	----	----
Wichita, Kans.	10.50	9.50	.0300	.0425	.0450	8.00	9.00	10.00
Oklahoma City, Okla.	11.50	10.50	.0400	.0475	.0500	8.00	9.00	10.00
Fort Worth, Tex.	11.00	10.00	.0400	.0500	.0525	7.50	8.50	9.50
Houston, Texas	11.50	10.50	.0425	.0525	.0550	8.50	9.50	10.50
Great Falls, Mont.	13.50	12.50	.0475	.0650	.0650	----	----	----
Cody, Wyoming [3]	11.00	10.00	.0325	.0450	.0475	8.50	9.50	10.50
Dodge City, Kans.	11.00	10.00	.0300	.0450	.0475	8.00	9.00	10.00
Salt Lake City, Utah	17.00	16.00	[4].0425	.0750	.0775	----	----	----
Santa Fe, N. M.	15.00	14.00	.0475	.0625	.0625	----	----	----
Yazoo City, Miss.	13.00	12.00	----	----	----	10.50	11.50	12.50
West Branch, Mich.	15.00	14.00	----	.0650	.0675	12.25	13.25	14.25

NOTE: These prices are net prices and no discounts thereunder are required to be made.

[1] Notwithstanding this table, the maximum delivered bulk price for flux to the roofing and floor covering industry at the points designated below shall be as follows: In the city limits of St. Paul and Minneapolis, Minnesota, $13.25 per ton. Within the State of Louisiana, $9.25 per ton.

[2] The delivered prices indicated are only for refineries using Columbus as a reference point and apply only to their shipment to points within the State of Ohio. The refinery prices apply to all shipments outside the State of Ohio.

[3] For refineries within the State of Montana using Cody as a reference point, the maximum bulk price f. o. b. refinery M. C. or R. C. grades is .056 per gallon when the material is sold for use within the State of Montana.

[4] For S. C. 1, 2 and 3; .0450 for S. C. 4 and 5.

TABLE II—REFINERIES IN OREGON, WASHINGTON AND CALIFORNIA

Reference point	Asphalt cement		Liquid asphalt								Roofing flux	Oxidized asphalt	
	Penetration		R.C. M.C. R.O.M.C. 0&1	R.C. M.C. 2-3-4-5 R.O.M.C. 2-3-4-5-6	SC 0	SC 1	SC 1A	SC 2	SC 3&4	SC 5&6		110–165 M.P.	165–220 M.P.
	11–40	41–200											
San Francisco, Calif.	$12.00	$9.50	$11.50	$10.00	$10.00	$7.60	$5.40	$9.50	$9.50	$9.50	$7.25	$11.00	$12.00
Bakersfield, Calif.	12.00	9.50	11.50	10.00	9.75	6.60	5.10	7.50	8.00	9.00	7.25	11.00	12.00
Los Angeles, Calif.	12.00	9.00	11.00	9.50	9.75	6.60	5.10	7.00	7.50	8.50	7.25	11.00	12.00
Santa Maria, Calif. [1]	10.00	7.50	9.50	8.00	8.00	5.60	----	7.50	7.50	7.50	7.25	11.00	12.00
Spokane, Wash.	16.50	16.50	16.50	16.50	----	----	----	----	----	----	----	----	----
Seattle, Wash., for water-borne transportation only	----	----	----	[2] 12.50	[2] 12.50	----	6.30	12.00	----	----	----	----	----

[1] Refiners in the Santa Maria Valley of California may charge a price delivered to the buyer not in excess of the sum of the maximum f. o. b. refinery or terminal price for the same product established for the refinery or terminal nearest to the particular destination and the rail freight tariff from such nearest refinery to destination

[2] M. C. 2 and R. C. 3 and 4 only apply to bulk storage points at Portland and Seattle.

(d) In the event that a seller is unable to determine his maximum bulk price for the sale of any standard product under this price regulation because a price for such product is not listed in Tables I and II opposite the reference point which determines his maximum price, then that seller shall set a tentative maximum bulk price for such product. Such tentative price shall be in line with the level of prices set forth in said tables and the differential between the tentative price of a particular standard product and the maximum prices of the refinery for other standard products shall be consistent with the differentials between these products at other reference points. The seller shall within 5 days after setting a tentative maximum price file with the Petroleum Branch of the Office of Price Administration, a written request for approval of such tentative maximum price. Such tentative price shall be the seller's maximum price for the particular product unless it is disapproved in writing by the Office of Price Administration within 30 days from the date it is filed as above provided or a substitute price is set by the Office of Price Administration. If a substitute

price is set, then such price shall be the maximum price. A tentative price which has been approved as a maximum price hereunder may subsequently be changed by order of the Price Administrator.

§ 1340.354 *Maximum bulk prices for special products.* The maximum bulk price f. o. b. refinery for special products as defined in § 1340.360 (b) shall be:

(a) Where the seller delivered a special product during the period August 1–November 1, 1941, the highest price charged by the seller for a delivery of that product during such period to a purchaser of the same class provided, however, that a price charged under a contract entered into prior to said period need not be maintained unless such contract price reflected current market conditions during said period.

All prices determined under (a) together with a description of this special product must be filed with the Office of Price Administration at Washington, D. C. within 30 days after the effective date of this price regulation.

(b) If the seller is unable to determine his maximum bulk price for a special product under (a), he shall set a tentative maximum price f. o. b. his refinery taking into consideration the two products which he sells which are nearest in specifications to the product to be priced, one having the next lower maximum price to the chosen tentative price and one having the next higher maximum price. He shall then complete Form No. 652.166 below.

If the seller has no product of similar specifications, he shall take into consideration the prices of the two products which his nearest geographical competitor sells which are nearest in specifications to the product to be priced, one having the next lower maximum price and one having the next higher maximum price.

Such a seller shall then complete Form No. 652.166 below with reference to such products of that nearest competitor. Space for name and address of nearest competitor must then be added to the form.

The seller shall within 15 days after setting a tentative maximum price, file with the Office of Price Administration a written request for approval of such tentative maximum price. In connection with such request, the seller shall file with the Petroleum Branch of the Office of Price Administration at its principal office in Washington, D. C. the information required in form No. 652.166 below:

OPA Form No. 652.166 Budget Bureau No. 08-S.T. 153

REPORT OF TENTATIVE MAXIMUM PRICE SPECIAL ASPHALT PRODUCT

	Product nearest in specification, having a lower maximum price A	New product B	Product nearest in specification, having a higher maximum price C
1a. Identification			
b. Maximum Price and unit of sale including container if packaged			
2. Delivery Cost of Ingredients Used in the Manufacture of Products Shown Above, Item 1a, Column A, B, and C:			
a. Crudes or residuum			
b. Asphalt			
c. Other ingredients (list each)			
3. The Percentage of Weight of Finished Product of Ingredients Used in the Manufacture of the Products Shown Above, Item 1a, Column A, B, and C and detailed in Item 2a, b, & c:			
a. Crudes or residuum			
b. Asphalt			
c. Other ingredients (list each)			
Total (add a, b, and c)	100.0	100.0	100.0
4. Container Shipments:			
a. Type of container (i. e. Barrel, drum, carton, etc.)			
b. Material from which container is fabricated			
c. Capacity of container			
d. Unit cost of container			
5. Penetration of Finished Product:			
a. at 32° F			
b. at 77° F			
c. at 115° F			
6. Ductility of Finished Product: 77° F			
7. Flash Point of Finished Product: Degrees F			
8. Melting Point of Finished Product: Degrees F			
9. Percent Soluble of Finished Product:			
a. In carbon disulphide			
b. In carbon tetrachloride			
10. Percent Loss on Heating of Finished Product			

NOTE: All tests shall be conducted in accordance with the latest methods as set forth by the A. S. T. M.

11. Has the new product been requested by a buyer? (Answer "yes" or "no") .....

12. Identify products replaced by new product .....

13. Identify product supplemented by new product .....

Filed by .....
Name of company
.....
Address
.....
Date

NOTE: Where a new special product is liquid, and where the tests required above are not applicable, then standard detailed specifications should be supplied.

§ 1340.355 *Changes in ingredients and changes in the costs of purchased ingredients*—(a) *Changes in ingredients.* When a seller makes a change in the ingredients used in the production of a special product or when he makes a change in the percentage of the same ingredients formerly used he shall be considered as making a new product and should file a tentative maximum price and report under § 1340.354.

(b) *Changes in the costs of purchased ingredients.* An adjustment in the maximum price of a special product may, however, be requested when the seller's cost of a special product, as compared with his cost during the period August 1–November 1, 1941, has been increased because of a change in the cost of purchased ingredients. No request will be considered hereunder unless the change in the cost of purchased ingredients exceeds 20% of the cost during the period August 1–November 1, 1941 and the total cost of producing the special product has also increased by not less than 20%.

A seller should set a tentative maximum price for the special product f. o. b. his refinery by filing with the Petroleum Branch of the Office of Price Administration at its principal office in Washington, D. C. a statement setting forth:

(1) Present maximum price

(2) The tentative maximum price

(3) The ingredients used in producing the special product upon which the request for a price increase is made, the percentages by weight of each ingredient in the finished product, and the weighted average costs thereof during the period August 1–November 1, 1941 and the costs at the time the request for an adjustment is made. The weighted average cost of an ingredient shall be determined by dividing the total amount expended for such ingredient during the period heretofore specified by the total quantity purchased.

If any of the above information is not reported with the tentative maximum price, it will be disapproved until such time as all data have been submitted. Disapproval of a tentative maximum price automatically requires the manufacturer to return to his original maximum price.

Where the information required is submitted, a tentative price shall be the seller's maximum price for the particular product unless it is disapproved in writing by the Office of Price Administration within 30 days from the date it is filed as above provided or a substitute price is set. If a substitute price is set, then such price shall be the maximum price. A tentative price which has been approved as a maximum price hereunder may subsequently be changed by order of the Price Administrator.

§ 1340.356 *Packaged asphalt.* (a) When the seller supplies the container, the maximum price for packaged asphalt in carload quantities shall be the sum of the following:

(1) The maximum bulk price as determined by this price regulation.

(2) The actual cost of the container used.

(3) The following packaging differentials:

Reference point:	*Packaging differential per ton*
New York, N. Y.	$2.00
Charleston, S. C.	2.00
Buffalo, N. Y.	3.00
Columbus, Ohio	3.00
Chicago, Ill.	3.00
St. Louis, Mo.	4.00

Reference point—Continued.	*Packaging differential per ton*
El Dorado, Ark	$4.00
New Orleans, La	3.00
Kansas City, Mo	4.00
Wichita, Kansas	4.00
Oklahoma City, Okla	4.00
Dallas, Texas	4.00
Houston, Texas	4.00
Cody, Wyoming	4.00
Billings, Mont	4.00
Dodge City, Kansas	4.00
Salt Lake City, Utah	4.00
San Francisco, Cal	4.00
Bakersfield, Cal	4.00
Los Angeles, Cal	4.00
Santa Maria, Cal	4.00

The seller's invoice shall in every case separately show the above charges.

(b) When the purchaser supplies the container, the seller's maximum price for packaged asphalt in carload quantities shall be the maximum bulk price as determined by this price regulation plus the packaging differential specified under (a) (3) above.

(c) The seller's maximum price for packaged asphalt for less than carload quantities shall be his maximum price for carload quantities plus $2.00 per ton.

§ 1340.357 *F. o. b. warehouse and bulk plant sales.* The maximum price for asphalt of any dealer, reseller or refiner who receives shipments at a warehouse or a bulk plant other than a terminal as defined in § 1340.360 (e) in carload or truckload quantities, and who unloads, stores, and resells such asphalt in less than carload quantities shall be determined by adding to the cost delivered at the warehouse or bulk plant based on carload rail shipments an amount sufficient to give the seller the same dollars and cents mark-up that he had during the major portion of the period August 1–November 1, 1941. If a seller did not carry inventory or receive shipments of asphalt at a warehouse or bulk plant in the period specified above, then his maximum price shall be the maximum price of his most closely competitive seller. The mark-ups computed under this section must be reported to the Petroleum Branch of the Office of Price Administration at Washington, D. C., within 15 days after February 20, 1943. Where a warehouse or bulk plant is not situated on a rail siding, the cost delivered at the nearest siding will determine the basis for establishing the maximum price. For the purposes of this section "mark-up" means the dollars-and-cents difference between the selling price of the asphalt and the cost thereof delivered at the warehouse or the nearest railroad siding.

§ 1340.358 *Other retail sales.* The maximum price of any retail seller not otherwise covered by this regulation shall be the delivered cost at his retail establishment or other point of delivery plus an amount sufficient to give the seller the same dollars and cents differential between his selling price and his delivered cost at the retail establishment or other point of delivery that he had during the major portion of the period August 1–November 1, 1941.

§ 1340.359 *Terminals.* Bulk prices at terminals when shipments are received by water are not determined by reference points. When shipments in bulk are made from terminals, the laid-down cost to a buyer at a given destination shall not exceed the maximum f. o. b. refinery price established by this regulation for the asphalt refinery nearest to that destination plus the rail freight from that nearest refinery to that destination. The maximum f. o. b. price on a given shipment from a terminal shall be the laid-down cost to the buyer as above defined less rail freight from terminal to the destination. The deduction of rail rate also applies to truck shipments.

Note that bulk storage points at Portland, Oregon, and Seattle, Washington, have specific prices in the table covering Oregon, Washington, and California.

§ 1340.360 *Definitions.* (a) "Asphalt" means any asphalt refined from petroleum.

(b) "Standard product" means any of the following grades:

(1) *Roofing flux.* Roofing flux means any grade of soft asphalt or liquid asphalt, having a Melting Point of less than 110° F. (Method, ball and ring A. S. T. M. D. 36–26) when sold to the roofing or floor covering industry for saturating or further processing to a higher melting point.

(2) *Oxidized asphalt.* Oxidized asphalt means any grade of asphalt which has a penetration of less than 125 (Method A. S. T. M. D. 88–38) and has been oxidized to a melting point above 110° F. when sold to the roofing or floor covering industry and has not been specially processed by the addition of another ingredient.

(3) *Asphalt cement.* Asphalt cement means any grade of asphalt which has a penetration of more than 40 and less than 300 at 77° F. when used for paving purposes.

(4) *Liquid asphalt.* "Liquid asphalt" means any grade of asphalt having a penetration in excess of 300 at 77° F. when used for road construction or any type of bituminous surfacing.

S. C. (Slow Curing).

M. C. (Medium Curing).

R. C. (Rapid Curing).

(c) "Special product" means any asphalt or asphalt product not included under standard products with the exception of those products which have been specially processed by the addition of another ingredient and when used by the roofing or paint industry.

(d) "Rail freight" means the lowest railroad rate applicable to the commodity to be shipped.

(e) "Terminal" means a bulk tank storage point other than a refinery where shipments are received by water.

(f) "Ton" means a net ton of 2000 pounds.

(g) "Gallon" means a U. S. gallon.

(h) "Bulk price" means a tank car, tank truck or barge price.

§ 1340.361 *Shipments by insulated tank cars.* Where a particular seller had an additional charge in effect during the period August 1–November 1, 1941 for shipments made in insulated tank cars, this same charge may be continued.

§ 1340.362 *Tank truck sales.* Where a particular seller had an additional charge in effect during the period August 1–November 1, 1941 for filling tank trucks, this additional charge may be continued.

§ 1340.363 *Maximum prices on delivered basis.* If a seller wishes to quote a delivered price, the delivered price shall never result in a higher laid-down cost to a particular buyer than that which would have resulted if the seller had sold f. o. b. the refinery plus rail freight from the refinery to destination.

§ 1340.364 *Brokerage or commissions.* Brokerage or commissions which increase the maximum price listed or determined above will not be allowed. The maximum price chargeable to the buyer by a seller f. o. b. a refinery or terminal includes any brokerage or commission which may be involved in the particular sale.

§ 1340.365 *Conversion table.* While actual weights on specified products may vary slightly, for sake of uniformity the following table shall be used for converting gallons to tons, or tons to gallons:

LIQUID ASPHALT Grade	*Gallons per ton at 60° F.*
0	257
1	251
2	248
3	245
4	243
5	241

ASPHALT CEMENTS Penetration	*Gallons per ton at 60° F.*
40–100	235
100–200	237
200–300	239

§ 1340.366 *Adjustable pricing.* Where a contract or agreement provides for the sale of asphalt or asphalt products to be delivered at a future date, the parties may agree that the prices to be charged shall be the maximum price in effect at the time of each delivery.

§ 1340.367 *Transfers of business or stock in trade.* If the business, assets or stock in trade of any seller or any person as defined in § 1340.352 (b) are sold or otherwise transferred on or after November 1, 1941 and the transferee carries on the business, or continues to deal in the same or similar asphalt and/or asphalt products, in an establishment separate from any other establishment previously owned or operated by him, the maximum prices of the transferee shall be the same as those to which his transferor would have been subject if no such transfer had taken place, and his obligation to keep records and make reports shall be the same. The transferor shall either preserve and make available, or turn over, to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the records and reports provisions of this price regulation.

§ 1340.368 *Federal and State taxes.* Any tax upon or incident to the sale, delivery, processing, or use of asphalt or asphalt products, imposed by any statute of the United States or statute or ordinance of any State or subdivision thereof, shall be treated as follows in determining the seller's maximum price for such asphalt or asphalt products and in preparing the records of such seller with respect thereto:

(a) *As to a tax in effect prior to November 1, 1941.* (1) If the seller paid

such tax, or if the tax was paid by any prior vendor, irrespective of whether the amount thereof was separately stated and collected from the seller, but the seller did not customarily state and collect separately from the purchase price during the period August 1–November 1, 1941, the amount of the tax paid by him or tax reimbursement collected from him by his vendor, the seller may not collect such amount in addition to the maximum price, and in such case shall include such amount in determining his maximum price under this price regulation.

(2) In all other cases, if, at the time the seller determines his maximum price, the statute or ordinance imposing such tax does not prohibit the seller from stating and collecting the tax separately from the purchase price, and the seller does state it separately, the seller may collect, in addition to the maximum price, the amount of the tax actually paid by him or an amount equal to the amount of the tax paid by any prior vendor and separately stated and collected, and in such case the seller shall not include such amount in determining the maximum price under this price regulation.

(b) *As to a tax or increase in a tax which becomes effective on or after November 1, 1941.* If the statute or ordinance imposing such tax or increase does not prohibit the seller from stating and collecting the tax or increase separately from the purchase price, and the seller does separately state it, the seller may collect, in addition to the maximum price, the amount of the tax or increase actually paid by him or an amount equal to the amount of tax paid by any prior vendor and separately stated and collected from the seller by the vendor from whom he purchased.

§ 1340.369 *Applications for adjustment or petitions for amendment*—(a) *Government contracts.* (1) The term "government contract" is here used to include any contract with the United States or any of its agencies, or with the government or any governmental agency of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 1, 1941, entitled "An Act to promote the defense of the United States." It also includes any subcontract under this kind of contract.

(2) Any person who has made or intends to make a "government contract" and who thinks that a maximum price in this regulation is impeding or threatens to impede production of material which is essential to the war program and which is or will be the subject of the contract, may file an application for adjustment in accordance with Procedural Regulation No. 6, issued by the Office of Price Administration.

(3) As soon as the application is filed, government contracts, deliveries, and payments may be made at the requested price, subject to refund if the requested price is disapproved or lowered. The seller must tell the buyer that the delivery is made subject to this refund.

(b) *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1,[1] issued by the Office of Price Administration.

§ 1340.370 *Reports, records and petitions.* (a) The following reports are required by this regulation:

Sec. 1340.353 (d) Tentative maximum bulk price set by seller for standard products not listed in Tables I and II.
1340.354 (a) Maximum bulk price determined by seller for special products.
1340.354 (b) Tentative maximum bulk price set by seller for special product in case he is unable to determine maximum bulk price.
1340.355 (a) Tentative maximum bulk price set by seller for special product—change in ingredients.
1340.355 (b) Tentative maximum bulk price—change in the cost of ingredients.
1340.537 Report of mark-up by dealers, resellers, or refiners when reselling less than carload lots from warehouse or bulk storage.
1340.367 Reports to be continued unchanged in case of transfer of business or of stock.

(b) The following records are required by this regulation:

Sec. 1340.356 (a) Item Required in Seller's Invoice for Packaged Asphalt.
1340.367 Records to be continued unchanged in case of transfer of business or of stock.

(c) The following petitions may be filed under this regulation:

Sec. 1340.369 (a) (2) Application for an adjustment if a maximum price is thought to impede work on a government contract.

§ 1340.369 (b) Petition for amendment of any provision of this regulation.

(d) *Other reports and records.* All sellers and purchasers of asphalt and asphalt products shall file such other reports and keep such other records as the Office of Price Administration may from time to time require.

§ 1340.371 *Enforcement and licensing.* (a) Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages, and proceedings for revocation of licenses provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this regulation or order issued by the Office of Price Administration are urged to communicate with the nearest field, state, or regional offices of the Office of Price Administration or its principal office in Washington, D. C.

(c) War procurement agencies and their contracting or paying finance officers are not subject to any liability, civil or criminal, imposed by this regulation. "War procurement agencies" include the War Department, the Department of the Navy, the United States Maritime Commission and the Lend-Lease Section in the Procurement Division of the Treasury Department, or any of their agencies.

(d) The Emergency Price Control Act of 1942 and Supplementary Order 18 explain the circumstances under which licenses may be suspended. A license cannot be transferred.

§ 1340.372 *Evasion.* The price limitations set forth in this Maximum Price Regulation No. 323 shall not be evaded whether by direct or indirect methods, in connection with any offer, solicitation, agreement, sale, delivery, purchase or receipt of or relating to any other commodity, or by way of commission, service, transportation, or any other charge, or discount, premium, or other privilege, or by tying agreement or other trade understanding, or otherwise.

§ 1340.373 *Maximum export price regulation.* The maximum prices for export sales of asphalt and asphalt products are covered by the Maximum Export Price Regulation.

§ 1340.374 *Effective date.* Maximum Price Regulation No. 323 (§§ 1340.351 to 1340.374, inclusive) shall become effective February 20, 1943, *Provided, however,* That where a buyer and seller have agreed on a particular price subject to the approval of the Office of Price Administration, the effective date of this regulation shall be the date of execution of such agreement for deliveries thereunder.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–2504; Filed, February 15, 1943; 3:07 p. m.]

[1] 7 F.R. 8961.

PART 1340—FUEL

[RPS 88,[1] Amendment 68]

PETROLEUM AND PETROLEUM PRODUCTS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Revised Price Schedule No. 88 is amended by revoking definitions of and maximum price provisions relating to asphalt and asphalt products as follows:

In § 1340.157(b), the following items are revoked:

Paving and cut-back asphalts, asphalt emulsions, road oils, roofing asphalt and roofing flux.
Asphalts and asphalt products not listed above are not for the time being included in the term "petroleum products" as defined above.

In § 1340.157, paragraphs (k) to (q) inclusive are revoked.

Section 1340.159 (c) (5) is revoked.*

§ 1340.158a *Effective dates of amendments.* * * *

(qqq) Amendment No. 68 to Revised Price Schedule No. 88 shall become effective this 20th day of February 1943.

(Pub. Laws 421 and 729, 7th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–2503; Filed, February 15, 1943; 3:08 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 1107, 1371, 1798, 1799, 1886, 2132, 2304, 2352, 2634, 2945, 3463, 3482, 3524, 3576, 3895, 3963, 4483, 4653, 4854, 4857, 5481, 5867, 5868, 5988, 5983, 6057, 6167, 6471, 6680, 7242, 7838, 8433, 8478, 9120, 9134, 9335, 9425, 9460, 9620, 9621, 9817, 9820, 10684, 11075; 8 F.R. 157, 232, 233, 857, 1227, 1200, 1457, 1312, 1318, 1642.

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 237,[1] Amendment 9]

ADJUSTED AND FIXED MARKUP REGULATION FOR SALES OF CERTAIN FOOD PRODUCTS AT WHOLESALE

A statement of the considerations involved in the issuance of Amendment No. 9 to Maximum Price Regulation No. 237 has been issued and filed with the Division of the Federal Register.*

Item No. 5 of the table in § 1351.519 is amended; a new item No. 14 is added to said table; subparagraphs e and f of paragraph 2 of § 1351.519 are amended and a new subparagraph n is added to paragraph 2 thereof; all to read as set forth below:

§ 1351.519 *Appendix B:*

[Figures to be used by wholesale distributors in determining new maximum prices under § 1351.503 of this regulation (new maximum prices are required after the effective date of this regulation)]

Food product	Last date for determining new maximum prices under this regulation	Last date for filing new maximum prices with appropriate OPA District or State offices	Figure to be multiplied by net cost of item in determining new maximum prices under this regulation		
			Class 1, retail-owned co-operative	Class 2, cash and carry	Class 3, service and delivery
*	*	*	*	*	*
5. Fish, processed	Mar. 10, 1943	Mar. 20, 1943	1.095	1.13	1.19
*	*	*	*	*	*
14. Macaroni and noodle products	Mar. 10, 1943	Mar. 20, 1943	1.09	1.115	1.15

* * * * *

2. *Definition of food products on which wholesalers must determine new maximum prices under § 1351.503 of this regulation.* * * *

e. Processed fish shall mean all canned fish and seafood and all salted, pickled, dried or otherwise processed fish except smoked fish and smoked seafood not canned; excluded are all fresh or frozen fish and seafood.

f. Cooking and salad oils shall mean all vegetable, fruit and leaf plant oils, whether pure or mixed; but shall not include prepared dressings or pure olive oil.

* * * * *

n. Macaroni and noodle products shall mean any dried macaroni or noodle product including but not limited to macaroni, spaghetti, vermicelli, sea shells, bows, egg noodles, egg alphabets, and macaroni and spaghetti dinners.

* * * * *

This amendment shall become effective on February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2205; Filed, February 15, 1943; 3:09 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 238,[2] Amendment 10]

ADJUSTED AND FIXED MARKUP REGULATION FOR SALES OF CERTAIN FOOD PRODUCTS AT RETAIL

A statement of the considerations involved in the issuance of Amendment No. 10 to Maximum Price Regulation No. 238 has been issued and filed with the Division of the Federal Register.*

Item No. 5 of the table in §1351.619 is amended; a new item No. 14 is added to said table, and the column in said table entitled "Last date for filing new maximum prices with appropriate local war price and rationing board" is deleted; subparagraphs e and f of paragraph 2 of § 1351.619 are amended and a new subparagraph n is added to paragraph 2 thereof; all to read as set forth below:

§ 1351.619 *Appendix B:*

[Figures to be used by retail distributors in determining new maximum prices under § 1351.603 of this regulation (new maximum prices are required after the effective date of this regulation)]

Food product	Last date for determining new maximum prices under this regulation	Figure to be multiplied by net cost of item in determining new maximum prices under this regulation				
		Independent retailer with annual volume			Class 4, chain retailer with annual volume under $250,000	Class 5, any retailer (chain or independent) with annual volume $250,000 or more
		Class 1, under $20,000	Class 2, $20,000 but less than $50,000	Class 3, $50,000 but less than $250,000		
*	*	*	*	*	*	*
5. Fish, processed	Mar. 10, 1943	1.27	1.27	1.27	1.21	1.21
*	*	*	*	*	*	*
14. Macaroni and noodle products	Mar. 10, 1943	1.32	1.32	1.32	1.27	1.26

* * * * *

2. *Definition of food products on which retailers must determine new maximum prices under § 1351.603 of this regulation.* * * *

e. Processed fish shall mean all canned fish and seafood and all salted, pickled, dried or otherwise processed fish except smoked fish and smoked seafood not canned; excluded are all fresh or frozen fish and seafood.

f. Cooking and salad oils shall mean all vegetable, fruit and leaf plant oil, whether pure or mixed; but shall not include prepared dressings or pure olive oil. * * *

n. Macaroni and noodle products shall mean any dried macaroni or noodle product including but not limited to macaroni, spaghetti, vermicelli, sea shells, bows, egg noodles, egg alphabets, and macaroni and spaghetti dinners.

* * * * *

This amendment shall become effective on February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2506; Filed, February 15, 1943; 3:09 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 255,[1] Amendment 4]

PERMITTED INCREASES FOR WHOLESALERS OF CERTAIN FOODS

Canned fruits, berries and juices, as listed.
Frozen fruits, berries and vegetables.
Fruit preserves, jams and jellies.
Apple butter.
Canned apples.
Apple sauce.
Apple juice.
Canned boned chicken and turkey.
Maple sugar.
Blended maple syrup.
Fountain fruits.
Tamales.
Tortillas.
Potato chips.
Raisin filled or topped biscuits and crackers.
Fig bars.
Bakers' fillings for fruit pie and pastry.
Peanut candy.
Honey (extracted).
Canned chili con carne.
Shoestring potatoes.
Julienne potatoes.
Pretzels.
Nut topping.
Canned prune juice, canned dried prunes, canned prune concentrate, and all other canned dried prune products.
Canned chicken and noodle dinner.
Canned chicken a la king.
Canned homestyle chicken.

A statement of the considerations involved in the issuance of Amendment No. 4 to Maximum Price Regulation No. 255 has been issued and filed with the Division of the Federal Register.*

The title is amended, as shown above, and subparagraphs (10) and (15) of § 1351.703 (d) are revoked.

This amendment shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2502; Filed, February 15, 1943; 3:07 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[Rev. MPR 256,[2] Amendment 2]

PERMITTED INCREASES FOR RETAILERS OF CERTAIN FOODS

Canned fruits, berries and juices, as listed.
Frozen fruits, berries and vegetables.
Fruit preserves, jams and jellies.
Apple butter.
Canned apples.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 8205, 8427, 8808, 9183, 9973, 10013, 10715; 8 F.R. 373, 569, 1200.

[2] 7 F.R. 8209, 8808, 9184, 10013, 10227, 10714; 8 F.R. 120, 374, 532, 1116.

[1] 7 F.R. 8890, 10471, 10472; 8 F.R. 1266.

[2] 7 F.R. 8893, 10473; 8 F.R. 1266.

Apple sauce.
Apple juice.
Canned boned chicken and turkey.
Maple sugar.
Blended maple syrup.
Fountain fruits.
Tamales.
Tortillas.
Potato chips.
Raisin filled or topped biscuits and crackers.
Fig bars.
Peanut candy.
Honey (extracted).
Canned chili con carne.
Shoestring potatoes.
Julienne potatoes
Pretzels.
Nut topping.
Canned prune juice, canned dried prunes, canned prune concentrate, and all other canned dried prune products.
Canned chicken and noodle dinner.
Canned chicken a la king.
Canned homestyle chicken.

A statement of the considerations involved in the issuance of Amendment No. 2 to Revised Maximum Price Regulation No. 256 has been issued and filed with the Division of the Federal Register.*

The title is amended, as shown above, and subparagraphs (10) and (15) of § 1351.203 (b) are revoked.

This amendment shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2501; Filed, February 15, 1943; 3:07 p. m.]

PART 1364—FRESH, CURED, AND CANNED MEAT AND FISH PRODUCTS

[MPR 303,[1] Amendment 1]

FROZEN CANADIAN SMELTS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 1364.861 (a) is amended to read as follows:

§ 1364.861 *Maximum prices for frozen Canadian smelts.* (a) The prices set forth below are maximum prices per pound packed in the usual container f. o. b. shipping point in the metropolitan area of Boston, Massachusetts. The maximum prices are gross prices and the seller shall deduct therefrom his customary allowances, discounts, and differentials. Add one cent per pound for each grade to obtain the maximum prices in the metropolitan area of New York, New York and Philadelphia, Pennsylvania.

"Extras" per pound @ $.24.
"No. 1s" per pound @ $.15.
"Mediums" per pound @ $.08.
"Dressed" per pound @ $.25.

* * * * *

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 619.

This amendment shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2507; Filed, February 15, 1943; 3:09 p. m.]

PART 1382—HARDWOOD LUMBER

[MPR 281,[1] Amendment 1]

NAVY OAK SHIP STOCK

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

In § 1382.201, paragraph (a) is amended; in § 1382.202, paragraphs (a) and (c) are amended; in § 1382.203, the text of paragraph (a) is amended and a new paragraph (b) is added; in § 1382.204, paragraphs (c) and (d) are amended; a new subparagraph (5) is added to paragraph (b) of § 1382.205; in § 1382.206, paragraph (a) is amended; in Appendix A, § 1382.212, the text of paragraph (a) is amended; subparagraph (4) in § 1382.212 (a) is amended; paragraphs (b) and (c) are redesignated to be subparagraphs (a) (5) and (a) (6), respectively; a new paragraph (b) is added; all as set forth below:

§ 1382.201 *Sales of Navy oak ship stock at higher than maximum prices prohibited.* (a) On and after December 14, 1942, regardless of any contract or other obligation, no person shall sell or deliver and no person shall buy or receive in the course of trade or business, any Navy oak ship stock at prices higher than the maximum prices fixed by this regulation, and no person shall agree, offer or attempt to do any of the foregoing. The maximum prices are set forth in Appendix A (§ 1382.212).

§ 1382.202 *To what transactions, products, and persons this regulation applies*—(a) *What transactions are covered.* The maximum prices established by this regulation apply to all sales and deliveries of Navy oak ship stock, except distribution yard inventory sales of less than 5,000 board feet, which are subject to the General Maximum Price Regulation.[2] This Maximum Price Regulation 281 divides sales into three kinds: direct-mill sales, distribution yard inventory sales, and distribution yard service sales.

(1) *"Direct-mill sale."* A "direct-mill sale" is a sale in which the shipment of ship stock originates at a sawmill, no matter who the seller is, and no matter whether he is usually known as a mill operator, wholesaler, retailer, distributor or anything else. A shipment is regarded as originating at a mill if the ship stock reaches the purchaser without ever becoming part of the stock of a distribution yard.

(2) *"Distribution yard inventory sale."* A "distribution yard inventory sale" is a sale in which the ship stock that is sold and shipped to the purchaser is in the regular inventory of a distribution yard at the time of sale. A "distribution yard" is a yard which gets ship stock from mills, unloads, sorts, stores, and resells and redistributes it, which regularly maintains an assorted inventory of ship stock, and which is established to make quick deliveries of many different items of ship stock in large or small quantities.

(3) *"Distribution yard service sale."* A "distribution yard service sale" is a sale in which a distribution yard (defined in subparagraph (2) above) makes a sale or receives an order for ship stock which it does not have in inventory, which it thereafter receives and places in inventory at the request of the purchaser, and which it then delivers to the purchaser in quantities as needed. Where the yard merely reloads ship stock, or handles and stores it no more than is necessary in a normal case where the yard receives a mill shipment, reloads it, and delivers it to the buyer, the sale is a direct-mill sale and not a distribution yard service sale.

* * * * *

(c) *What persons are covered.* Any person who makes the kind of sale or purchase covered by this regulation is subject to it. The term "person" includes an individual, corporation, partnership, association, or any other organized group; their legal successors or representatives; the United States, or any government, or any of its political subdivisions; or any agency of any of the foregoing.

§ 1382.203 *How to figure delivered prices*—(a) *Transportation addition in direct-mill sales.* In direct-mill sales the transportation charges set forth below may be added to the maximum f. o. b. mill prices for direct-mill sales set out in paragraph (a) of the Appendix.

* * * * *

(b) *Delivery addition in distribution yard inventory and service sales.* In distribution yard inventory and service sales the seller may add to the maximum prices, f. o. b. yard (as set out in paragraph (b) of the Appendix), delivery charges for transportation from the yard to the purchaser, in accordance with paragraphs (a) (1) and (a) (2) above.

§ 1382.204 *What the invoice must contain.* * * *

(c) *Type of sale.* The invoice must state whether the sale is a direct-mill sale, distribution yard inventory sale, or distribution yard service sale.

(d) *Transportation and delivery charges.* In all sales where the seller has quoted a delivered price, the invoice must contain: (1) the point of origin of the shipment; (2) the destination; (3) the rail or truck rate (or, if private truck is used, the amount added for transportation); and (4) indirect-mill sales, any charge which the seller is permitted to make for truck delivery before or after rail haul.

[1] 7 F.R. 10290.

[2] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5783, 5784, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317.

§1382.205 *Prohibited practices.* * * *

(b) *Specific practices.* * * *

(5) Unnecessarily routing ship stock through a distribution yard.

§ 1382.206 *Relation to other regulations.* (a) The provisions of this Maximum Price Regulation 281 supersede the provisions of the General Maximum Price Regulation, except as to distribution yard inventory sales of less than 5000 board feet of Navy oak ship stock. This regulation also supersedes the provisions of all specific hardwood regulations relating to the grades and items of lumber covered by this regulation. All specific prices for any of the grades or items of lumber covered by this regulation which previously have been authorized for particular mills under any of the special grade provisions of existing lumber maximum price regulations are hereby revoked, and such prices are superseded by the maximum prices established by this Maximum Price Regulation No. 281.

* * * * *

§ 1382.212 *Appendix A: Maximum prices for Navy oak ship stock*—(a) *Maximum f. o. b. mill prices for direct-mill sales.* The maximum prices for direct-mill sales of Navy oak ship stock are as set forth below. These prices are f. o. b. mill for 1000 board feet of Navy oak ship stock, in the grade specifications of the United States Navy Department.

* * * * *

(4) *Complete ship schedule.* When any seller furnishes and delivers all of the white oak select car stock and white oak ship planking included in a complete Navy schedule of such material, according to the schedule of quantities and sizes, and in accordance with the specifications of the Navy Department, the maximum f. o. b. mill price for 1000 feet of such material shall be as follows:

Designation of schedule:	*Maximum f. o. b. mill price*
YT	$135.00
ATR	140.00
APC	145.00
YN	190.00

If any portion of the material included in any of these schedules is furnished in red oak, the maximum prices shall be adjusted accordingly.

When a seller who furnishes a complete ship schedule substitutes, in any part, material other than white or red oak, the maximum price shall be adjusted to reflect the lower ceiling prices of the substituted materials. This adjusted price, with a complete description of the schedule and the materials to be furnished, must be reported to the Office of Price Administration, Washington, D. C., and may be ordered reduced, if found to be excessive. But if the price is not disapproved within 30 days of the receipt of the report, it is approved.

A seller using this special pricing provision can go ahead with delivery of the lumber and collection of the price he has computed or requested, but he must tell the buyer that the price is subject to revision within the 30-day period, and, if the price is ordered reduced, must refund any excess over the final approved price.

* * * * *

(b) *Maximum prices for distribution yard service and inventory sales*—(1) *Definition of "Pacific Coast".* This paragraph distinguishes between sales by distribution yards located on the Pacific Coast, and other distribution yard sales. For this purpose, the "Pacific Coast" means the parts of California, Oregon and Washington west of the crest of the Sierra Nevada and Cascade Mountains.

(2) *Maximum f. o. b. Pacific Coast yard prices.* The maximum f. o. b. yard prices for Pacific Coast distribution yard inventory or service sales are the sum of the following items:

(i) The maximum f. o. b. mill price.

(ii) Inbound freight figured on a freight rate of $.90 per 100 pounds and the actual weight of the ship stock.

(iii) A handling charge of $12.00 per 1000 board feet.

(iv) A mark-up on items (i) and (ii) not greater than the following:

10 percent in distribution yard service sales; and

20 percent in distribution yard inventory sales.

(3) *Maximum prices for other yards.* For yards other than those located on the Pacific Coast, the direct-mill maximum prices apply to all sales, whether out of distribution yard stocks or not.

This amendment shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2508; Filed, February 15, 1943; 3:08 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[Supp. Amendment 14 to Maximum Rent Regulations]

HOUSING ACCOMMODATIONS OTHER THAN HOTELS AND ROOMING HOUSES

Paragraph (b) (2) of §§ 1388.16, 1388.66, 1388.116, 1388.166, 1388.216, 1388.266, 1388.316, 1388.366, 1388.416, 1388.466, 1388.516, 1388.566, 1388.616, 1388.666, 1388.716, 1388.766, 1388.816, 1388.866, 1388.916, 1388.966, 1388.1016, 1388.1656, 1388.1706, 1388.1756, 1388.1806, 1388.2056, 1388.3056, 1388.4056, 1388.5056, 1388.6056, 1388.7056, 1388.8056, 1388.36, 1388.136, 1388.236, 1388.286, 1388.386, 1388.586, 1388.686, 1388.786, and 1388.886 of Maximum Rent Regulations Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, 57, 52, 60, and 62, respectively, is amended to read as follows:

§ ------ *Restrictions on removal of tenant.* * * *

(b) * * *

(2) Removal or eviction of a tenant of the vendor, for occupancy by a purchaser who has acquired his rights in the housing accommodations on or after ------,[1] is inconsistent with the purposes of the Act and this maximum rent regulation and would be likely to result in the circumvention or evasion thereof, unless (i) the payment or payments of principal made by the purchaser, excluding any payments made from funds borrowed for the purpose of making such principal payments, aggregate 33⅓% or more of the purchase price, and (ii) a period of three months has elapsed after the issuance of a certificate by the Administrator as hereinafter provided. For the purposes of this paragraph (b) (2), the payments of principal may be made by the purchaser conditionally or in escrow to the end that that they shall be returned to the purchaser in the event the Administrator denies a petition for a certificate. If the Administrator finds that the required payments of principal have been made, he shall, on petition of either the vendor or purchaser, issue a certificate authorizing the vendor or purchaser to pursue his remedies for removal or eviction of the tenant in accordance with the requirements of the local law at the expiration of three months after the date of issuance of such certificate.

In no other case shall the Administrator issue a certificate for occupancy by a purchaser who has acquired his rights in the housing accommodations on or after ------,[1] unless he finds (i) that the vendor has or had a substantial necessity requiring the sale and that a reasonable sale or disposition of the accommodations could not be made without removal or eviction of the tenant, or (ii) that other special hardship would result, or (iii) that equivalent accommodations are available for rent, into which the tenant can move without substantial hardship or loss; under such circumstances the payment by the purchaser of 33⅓% of the purchase price shall not be a condition to the issuance of a certificate, and the certificate may authorize the vendor or purchaser, either immediately or at the expiration of three months, to pursue his remedies for removal or eviction of the tenant in accordance with the requirements of the local law.

This Supplementary Amendment No. 14 to Maximum Rent Regulations for Housing Accommodations other than Hotels and Rooming Houses shall become effective February 15, 1943.

(Pub. Law 421, 77th Cong.)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2509; Filed, February 15, 1943; 3:07 p. m.]

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[1] The applicable words are to be inserted for each maximum rent regulation. The applicable words are as follows: For Maximum Rent Regulations Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 33, 35, 37, 39, 41, 43, 45, 47, 49, insert "October 20, 1942;" for Maximum Rent Regulation No. 51, insert "November 1, 1942;" for Maximum Rent Regulations Nos. 52, 53, 55, 57, 62, insert "the effective date of this Maximum Rent Regulation;" and for Maximum Rent Regulation No. 60, insert "November 6, 1942."

PART 1405—FERRO-ALLOYS

[MPR 248,[1] Amendment 2]

MANGANESE ORES

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and is filed with the Division of the Federal Register.*

A new § 1405.56a is added as set forth below:

§ 1405.56a *Sales or deliveries of domestic metallurgical manganese ores to dealers and to certain other buyers.* Neither the provisions of this Maximum Price Regulation No. 248, other than § 1405.59, nor the provisions of the General Maximum Price Regulation shall apply to the sale or delivery of domestic metallurgical manganese ore to a dealer who buys such ore for resale or to the sale or delivery of such ore to a user or processor who uses it in the production of spiegeleisen or of ferro-manganese containing less than 75% manganese or who charges it directly in the production of steel or in foundry operations.

§ 1405.64a *Effective dates of amendments.* * * *

(b) Amendment No. 2 (§ 1405.56a) to Maximum Price Regulation No. 248 shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2510; Filed, February 15, 1943; 3:08 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Supp. Service Reg. 6 to MPR 165 as Amended[2]]

REPAIR OF AUTOMOTIVE VEHICLES AND FARM EQUIPMENT

A statement of the considerations involved in the issuance of this Supplementary Service Regulation No. 6, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

§ 1499.656 *Increases in hourly rates charged by certain sellers.* (a) Any person engaged in the repair or maintenance of automotive vehicles or farm equipment:

Who employs a total of not more than eight persons; and whose wage increases have been exempted from the provisions of Executive Order No. 9250 by the National War Labor Board; and

Who uses a customer's hourly rate to determine his maximum prices under Maximum Price Regulation No. 165 as amended;

may determine his maximum customer's hourly rate by selecting the highest of the following:

(1) The highest customer's hourly rate actually charged in March 1942; or

(2) The average basic hourly wage rate (before payment of overtime) paid to employees performing farm equipment and automotive repair work in the week which includes March 31, 1942, multiplied by 2; or

(3) The average basic hourly wage rate (before payment of overtime) paid to employees performing such work in the week which includes March 31, 1942, plus 60¢.

and adding thereto an amount equal to the increase, since March 31, 1942 in the average basic hourly wage rate (before payment of overtime) paid employees performing such work, provided that such increases in wage rates were not in violation of the regulations of the National War Labor Board. Where the resulting rate is no divisible by 5 cents, it may be adjusted upward to the nearest amount so divisible.

(b) A person who increases his prices under paragraph (a) shall prepare a list containing the name and wage paid each employee (exclusive of supervisory and nonproductive employees) who performed repair or maintenance services on automotive vehicles or farm equipment in the week including March 31, 1942, a similar list of employees performing such services in the week preceding the increase in the customer's hourly rate, and a statement setting forth:

(1) The average basic hourly wage rate of employees in his shop engaged in repair or maintenance work (exclusive of supervisory and nonproductive employees) for the week including March 31, 1942, and also for the week preceding the date of the increase in his customer's hourly rate; and

(2) His highest customer's hourly rate in effect in March 1942; his increased customer's hourly rate; and the date upon which it became effective.

This statement shall be prepared in the form set forth in Appendix A and shall, together with the lists of employees, be permanently retained and made available for public inspection in the same manner as the statement of maximum service prices required by § 1499.108 of Maximum Price Regulation No. 165 as amended.

(c) 30 days after an increased customer's hourly rate has been put into effect such rate may be again recomputed to take into account further increases in the average basic hourly wage rate, provided that all requirements of paragraphs (a) and (b), including the preparation of a new list of employees and a new statement in the form set forth in Appendix A, are again met.

(d) Any person engaged in the repair or maintenance of automotive vehicles or farm equipment, who qualifies under paragraph (a) but who does not employ any persons in supplying such services, may take as his maximum customer's hourly rate the highest of the following:

(1) His highest customer's hourly rate actually charged in March 1942; or

(2) The current permissible maximum customer's hourly rate (as determined under this regulation) of his most closely competitive seller of the same class who does employ persons in supplying such services.

(e) Persons covered by this regulation may make an additional charge for work done at overtime wage rates in overtime hours if the customer actually requested that the work be done in overtime hours and the employee performing the work was paid overtime wages for the work. The ratio of the overtime charge to the regular charge shall not exceed the ratio of the overtime wage rate to the regular wage rate; i. e., if overtime wages are one and one-half times regular wages (time and a half for overtime) the overtime customer's hourly rate may be one and one-half times the regular customer's hourly rate.

(f) When a price is increased as authorized herein, the seller shall post conspicuously in his place of business a notice setting forth his new maximum customer's hourly rate for each service involved. This notice shall be posted in the following form:

AUTHORIZED HOURLY RATE FOR LABOR

(To be used in determining our maximum prices for service)

	New hourly rate
Automotive repairs	$_____
Farm equipment repairs	$_____

This rate is in accordance with OPA regulations. The calculations on which it is based are available for inspection during regular business hours.

This regulation shall become effective February 22, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

APPENDIX A—FORM FOR RECORDING INCREASE IN SERVICE RATE

(If you increase your maximum customer's hourly rate, you must fill out this form and keep it as part of your permanent records. You do NOT have to file it with OPA but must make it available for inspection during your regular business hours.)

Explanation of increase in customer's hourly rate, effective _____
(give date)

(a) *Present average basic hourly wage rate.* (1) Total amount of straight-time wages (excluding overtime payments) paid to employees directly engaged in repair and maintenance work in the week before the increase _____ $_____

(2) Total number of straight-time hours (excluding overtime) worked by such employees in the week before the increase _____

Present average basic hourly wage rate (divide item 1 by item 2) _____ Item A. $_____

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 8694, 10017.

[2] 7 F.R. 6428, 6966, 8239, 8431, 8798, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 10480, 10557, 10619, 10718, 9972, 11010; 8 F.R. 1060.

(b) *Average basic hourly wage rate on March 31, 1942.* (1) Total amount of straight-time wages (excluding overtime payments) paid in the week which includes March 31, 1942, to employees directly engaged in repair or maintenance work---------- $-------

(2) Total number of straight-time hours (excluding overtime) worked by such employees in the week which includes March 31, 1942----------

Average basic hourly wage rate in March 1942 (divide item 1 by item 2)---------- Item B. $------

(c) *Increase in average basic hourly wage rate* (Item A minus Item B)---------- Item C. $------

(d) *New maximum customer's hourly rate.* (1) The highest customer's hourly rate *actually charged* in March 1942---- $-------

(2) The average basic hourly wage rate in March (Item B above) *multiplied by 2*---------- $-------

(3) The average basic hourly wage rate in March (Item B above) *plus 60 cents*---------- $------

Highest of (1), (2) or (3) above---------- Item D $--------

Tentative Maximum Customer's hourly rate (Item C plus Item D)---------- Item E $--------

Final Maximum Customer's hourly rate--------- $--------

(If Item E cannot be divided evenly by five cents, you may round it upward to the nearest nickel.)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2513; Filed, February 15, 1943; 3:09 p. m.]

PART 1499—COMMODITIES AND SERVICES

[GMPR,[1] Amendment 44]

CERTAIN SALES OR DELIVERIES

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Section 1499.9 (b) (5) is amended to read as set forth below:

(b) This regulation shall not apply to the following sales or deliveries:

* * * * *

(5) By hotels, restaurants, soda fountains, bars, cafes, caterers, or other similar eating establishments, of meals, servings of food portions customarily served separately or as part of a meal, or beverages mixed or prepared by the seller. This exemption shall not apply to sales of ice cream in cones, dixie cups or similar packages.

§ 1499.23a *Effective dates of amendments.* * * *

(ss) Amendment No. 44 (§ 1499.9 (b) (5)) to the General Maximum Price Regulation shall become effective February 20, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2511; Filed, February 15, 1943; 3:08 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 200 Under § 1499.18 (b) of GMPR]

VAN BUREN PRODUCTS CO., INC.

For the reasons set forth in an opinion issued simultaneously herewith, it is ordered:

§ 1499.1800. *Denial of application for adjustment of maximum prices of domestic malt beverages sold by Van Buren Products Company, Inc., 10 West Bennett Street, Buffalo, New York.* (a) The application of the Van Buren Products Company, Inc., 10 West Bennett Street, Buffalo, New York, filed September 9, 1942, and assigned Docket Number GF3-1901, requesting permission to discontinue quantity discounts from its maximum prices of domestic malt beverages, is denied.

(b) This Order No. 200 (§ 1499.1800) shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2512; Filed, February 15, 1943; 3:07 p. m.]

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[RPS 63[1] as Amended Feb. 13, 1943]

RETAIL PRICES FOR NEW RUBBER TIRES AND TUBES

By Amendment No. 7 paragraph (a) (1) in § 1315.104 is amended; in § 1315.105 the words "for so long as the Emergency Price Control Act of 1942 remains in effect" are substituted for the words "for a period of not less than one year"; a new § 1315.105a is added;

Paragraph (f) in each of §§ 1315.110 and 1315.111 is amended by adding a new subparagraph (3); paragraphs (g) and (h) in each of §§ 1315.110 and 1315.111 are amended by adding a new sentence at the end of each; subparagraph (3) in paragraph (i) in each of §§ 1315.110 and 1315.111 is amended by inserting the words "for passenger-car tires or tubes and the 8:25 x 20 size for truck tires or tubes" immediately after the phrase "6:00 x 16 size" where it first occurs, and by inserting the words "or the 8:25 x 20 size, as the case may be," immediately after the phrase "6:00 x 16 size" where it occurs a second time, and a new subparagraph (4) is added to each paragraph (i);

In subdivision (ii) of paragraph (o) (1) in § 1315.110, the words "on April 24, 1942", are deleted and the paragraph reference "(m)" is substituted for the paragraph reference "(n)"; in subdivision (ii) of paragraph (o) (1) in § 1315.111, the words "April 24, 1942", are deleted;

Paragraph (b) in § 1315.111 is amended by amending five of the items in the table, in which The Brown Fence and Wire Co., Hardware Merchandising Corporation, Hibbard, Spencer, Bartlett and Co., The Pep Boys and Strauss Stores Corporation are listed as the distributors and by inserting seven new items in the table in the appropriate places for the distributors' names to appear in alphabetical order; paragraph (d) in § 1315.111 is amended by amending four of the items in the table, in which Abel Sales Corporation, The Brown Fence and Wire Co., Hardware Merchandising Corporation and Pep Boys are listed as the distributors, and by inserting thirty-six new items in the table in the appropriate places for the distributors' names to appear in alphabetical order; paragraph (e) (1) in § 1315.111 is amended by amending one of the items in the table, in which Hibbard, Spencer, Bartlett and Co. is listed as the distributor, and by inserting nine new items in the table in the appropriate places for the distributors' names to appear in alphabetical order; and paragraph (e) (2) in § 1315.111 is amended by inserting two new items in the table in the appropriate places for the distributors' names to appear in alphabetical order; so that Revised Price Schedule No. 63 as amended February 13, 1943 shall read as set forth below:

The outbreak of war with the Japanese Empire makes uncertain the future shipment of rubber from the Far East and necessitates for the present time a great curtailment in the consumption of rubber for new rubber tires and tubes so that the rubber stockpile already accumulated may be available for military and essential civilian purposes. There are large stocks of new rubber tires and tubes in the hands of retailers, and sales from these stocks are permitted only to those consumers who can demonstrate that it is in the national interest for them to have such new tires or tubes.

Since July 3, 1941, the Office of Price Administration with the complete cooperation of the members of the tire and tube industry has stabilized, within maximum levels, the wholesale prices received by manufacturers for new rubber tires and tubes. Stabilization of retail prices is now considered essential to the success of the Government's effort to insure that the limited number of new rubber tires and tubes available are used where they are most needed in our economy.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5784, 5783, 6058, 6081, 6007, 6216, 6615, 6939, 6794, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317.

[1] 7 F.R. 1323.

The maximum retail prices set forth in Price Schedule No. 63 are established, after investigation and conferences with members of both the manufacturing and distributive phases of the industry, on the basis of price lists presently used by the industry and which were so used shortly before the outbreak of the war in the Pacific. Observance of Price Schedule No. 63 will be fair to buyers and to sellers alike, and will further the Government's program for the allocation of rubber tires and tubes to consumers.

Accordingly, under the authority vested in me by Executive Order No. 9734, it is hereby directed that:

Sec.

AUTHORITY: §§ 1315.101 to 1315.112, inclusive, issued under E.O. 8734, 8875, 6 F.R. 1917, 4483. (Executive authority superseded by Emergency Price Control Act of 1942, Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871.)

§ 1315.101 *Maximum retail prices for new rubber tires and tubes.* On and after January 5, 1942, regardless of the terms of any contract of sale or other commitment, no person shall sell, offer to sell, deliver, or transfer, at retail, any new rubber tire or tube, at prices higher than the maximum prices set forth in Appendices A and B, hereof, incorporated herein as § 1315.110 and § 1315.111.

[NOTE: Supplementary Order No. 31 (7 F.R. 9894) provides that: "Notwithstanding the provisions of any price regulation, the tax on transportation of all property (excepting coal) imposed by section 620 of the Revenue Act of 1942 shall, for purposes of determining the applicable maximum price of any commodity or service, be treated as though it were an increase of 3% in the amount charged by every person engaged in the business of transporting property for hire. It shall not be treated, under any provision of any price regulation or any interpretation thereof, as a tax for which a charge may be made in addition to the maximum price.]

[NOTE: Supplementary Order No. 34 (7 F.R. 10779) permits special packing expenses to be added to maximum prices on sales to procurement agencies of the United States.]

§ 1315.101a *Leasing or renting of new rubber tires and tubes.* The maximum price for leasing or renting any new rubber tire or tube shall be determined according to Maximum Price Regulation No. 165,[3] as Amended—Services, as now or hereafter amended.

(§ 1315.101a added by Amendment 5, 7 F.R. 7364)

§ 1315.102 *Less than maximum prices.* Lower prices than those set forth in Appendices A and B (§ 1315.110 and § 1315.111) may be charged or demanded.

§ 1315.103 *Evasion.* The price limitations set forth in Price Schedule No. 63 shall not be evaded whether by direct or indirect methods in connection with the sale, delivery, or transfer of a new rubber tire or tube, alone or in conjunction with any other article or material, or by way of any commission, service, transportation, or other charge, or by tying-agreement or other trade understanding, or by increasing the charges for the extension of credit or for the mounting of a tire or tube on a vehicle or for any other service over those in effect on November 25, 1941, or by making terms and conditions of sale more onerous to purchasers than those available or in effect on November 25, 1941, or by any other means. The purchaser shall always have the option of paying at the time of the purchase the full cash price of the tire or tube, which shall not exceed the maximum price less any trade-in allowance. He shall also have the option of receiving delivery of such tire or tube at the seller's place of business, without having it mounted on a vehicle or having any other service performed.

[NOTE: Supplementary Order No. 29 (7 F.R. 9816) lists certain services customarily offered by retailers which may be curtailed or eliminated without a compensating reduction in ceiling prices.]

§ 1315.104. *Posting of prices.* (a) Every person engaged in the business of selling new rubber tires or tubes at retail, shall mark or post maximum prices for such tires or tubes in accordance with one of the following subparagraphs:

(1) Such seller shall keep posted in a conspicuous place in each retail establishment at which such tires or tubes are offered for sale, a price list setting forth the maximum retail prices applicable to such tires or tubes. Lists of maximum prices computed in compliance with the terms of Revised Price Schedule No. 63 and prepared by manufacturers of manufacturers' brands and by owners of private brands, may be used for this purpose.

(2) Or such seller shall mark or post the maximum prices of such tires or tubes in accordance with the provisions of § 1499.13 (a) of the General Maximum Price Regulation.[4]

(b) If, on November 25, 1941, the seller had special and separate charges in effect for the extension of credit, for the demounting or mounting of a tire or tube on a vehicle or rim, or for any other service, in connection with the sale of new rubber tires or tubes, and if he desires to continue such charges after January 5, 1942, such seller shall keep posted in a conspicuous place in each retail establishment at which such tires or tubes are offered for sale, a statement listing the prices in effect on November 25, 1941, for such extra service.

(c) A seller at retail shall not remove or cause to be removed from any new rubber tire or tube any tag or label that has been attached to such tire or tube pursuant to an order of the Office of Price Administration.

(§ 1315.104 amended by Amendment 6, 7 F.R. 9888)

§ 1315.105 *Records and reports.* Every person engaged in the business of selling new rubber tires or tubes at retail shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942 remains in effect, complete and accurate records of every such sale of such articles, showing the date thereof, the name and address of the purchaser, the price, and the brand name, size, and quantity of all new rubber tires or tubes sold.

Persons affected by Price Schedule No. 63 shall submit such reports to the Office of Price Administration as it may, from time to time, require.

§ 1315.105a *Filing statement of maximum prices.* The provisions of § 1499.13 (b) of the General Maximum Price Regulation requiring the filing of certain statements of maximum prices with the appropriate War Price and Rationing Board of the Office of Price Administration shall not apply to any sale or delivery of new tires or tubes for which a maximum price is established by this Revised Price Schedule No. 63.

§ 1315.106 *Enforcement.* (a) Persons violating any provision of this Revised Price Schedule No. 63 are subject to the criminal penalties, civil enforcement actions, license suspension proceedings and suits for treble damages provided for by the Emergency Price Control Act of 1942.

(b) Persons who have evidence of any violation of this Revised Price Schedule No. 63, or any price schedule, regulation or order issued by the Office of Price Administration or of any acts or practices which constitute such a violation are urged to communicate with the nearest field or regional office of the Office of Price Administration or its principal office in Washington, D. C.

§ 1315.106a *Licensing: Applicability of the registration and licensing provisions of the General Maximum Price Regulation.* The registration and licensing provisions of §§ 1499.15 and 1499.16 of the General Maximum Price Regulation are applicable to every person subject to this Revised Price Schedule No. 63 selling at retail any new rubber tire or tube covered by this Revised Price Schedule

[3] 7 F.R. 6428, 6966, 8239, 8431, 8798, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9972, 10480, 10619, 10718, 11010; 8 F.R. 1060.

[4] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5783, 5784, 6058, 6081, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 9435, 9615, 9616, 9732, 10155, 10454; 8 F.R. 371, 1204, 1317.

No. 63. When used in this section, the term "selling at retail" has the definition given to it by § 1499.20 (o) of the General Maximum Price Regulation. Said registration and licensing provisions became effective as to persons selling at retail on May 18, 1942.

§ 1315.107 *Petitions for amendment.* Any person seeking an amendment of any provision of this Revised Price Schedule No. 63 may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.[4]

(§ 1315.107 amended by Supplementary Order No. 26, 7 F.R. 8948)

[NOTE: Procedural Regulation No. 6 (7 F.R. 5087, 5665) provides for the filing of applications for adjustment of maximum prices for commodities or services under Government contracts or subcontracts. Supplementary Order No. 9 (7 F.R. 5444) makes the provisions of Procedural Regulation No. 6 applicable to all price regulations, with the exception of those on scrap, waste, and salvage materials.]

[NOTE: Supplementary Order No. 28 (7 F.R. 9619) provides for the filing of applications for adjustment or petitions for amendment based on a pending wage or salary increase requiring the approval of the National War Labor Board.]

§ 1315.108 *Definitions.* (a) When used in Price Schedule No. 63 the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing;

(2) "Sale at retail" means any sale to a purchaser for use by such purchaser and not for resale;

(3) "New rubber tire or tube" means any rubber tire or tube that has been used less than 1,000 miles;

(4) "Manufacturers' brands" of new rubber tires or tubes means all tires or tubes marketed under brand names owned by the manufacturer of such tires or tubes;

(5) "Private brands" of new rubber tires or tubes means all tires or tubes marketed under brand names not owned by the manufacturer of such tires or tubes;

(6) "Rubber" means all forms and types of rubber including synthetic and reclaimed rubber;

(7) "Exhibit C passenger-car tires and tubes" means any new rubber passenger-car tires and tubes of a brand, type, quality and size listed on the Exhibit C filed with the Office of Price Administration in March 1942 by the manufacturer or distributor of such tires or tubes in connection with the Tire Return Plan sponsored by the Office of Price Administration, and made part of the contract between such manufacturer or distributor and Defense Supplies Corporation.

(8) "Passenger-car reclaimed rubber war tire" means any passenger-car tire, regardless of the brand or other name appearing thereon, which is manufactured primarily of reclaimed rubber under restrictions of the War Production Board applicable to such war tires, and which has the words "War Tire" marked on the sidewall.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

(§ 1315.108 amended by Amendment 6, 7 F.R. 9888)

§ 1315.109 *Effective date of Price Schedule No. 63.* This Schedule (§§ 1315.101 to 1315.111, inclusive) shall become effective on January 5, 1942.

[Issued December 30, 1941]

§ 1315.109a *Effective dates of amendments.*

Amendment Nos. and Issue dates:	Effective
Amendment 1, 4-22-42	4-25-42
Amendment 2, 5-14-42	5-18-42
Amendment 3, 7-23-42	7-24-42
Amendment 4, 8- 3-42	8- 4-42
Correction, Amendment 4, 8-7-42	8- 4-42
Amendment 5, 9-16-42	9-22-42
Amendment 6, 11-25-42	11-25-42
Amendment 7, 2-13-43	2-19-43

§ 1315.110 *Appendix A: Maximum retail prices for manufacturers' brands of new rubber tires and tubes.* The following prices are the maximum prices that may be charged at retail for new rubber tires or tubes at the seller's place of business. The maximum prices set forth herein may not be exceeded for any such sale, even though in a particular case no used tire or tube is traded in. If a used tire or tube is traded in, the trade-in allowance shall be deducted from the maximum price.

The actual dollar amount of the Federal excise tax paid on any tire or tube may in each case be added to the maximum price established by Price Schedule No. 63.

(a) The maximum retail prices for manufacturers' brands of passenger-car tires (4 ply) and truck tires (10 ply) listed in paragraph (b) below shall be:

PASSENGER-CAR TIRES

Size	Price
4.50—12	$9.10
4.00—15	7.80
5.00—15	10.80
6.50—15	17.50
7.00—15	19.80
8.25—15	28.15
5.00—16	10.70
5.50—16	13.15
6.00—16	14.75
6.25—16	16.60
6.50—16	17.90
7.00—16	20.30
7.50—16	25.75
5.25/5.50—17	13.55
6.00—17	16.00
5.25/5.50—18	12.35
6.00—18	17.25
4.75/5.00—19	11.05
5.25—20	15.10

TRUCK TIRES

8.25—15	68.50
7.50—18 (32 x 7)	62.10
8.25—18	65.75
9.00—18	78.10
10.50/11.00—18	106.00
7.00—20 (32 x 6)	47.50
7.50—20 (34 x 7)	63.40
8.25—20	67.65
9.00—20	80.75
8.25—22	72.40
9.00—22	84.75
7.00—24 (36 x 6)	55.10
7.50—24 (38 x 7)	71.10
8.25—24	76.40
9.00—24	88.15

(b) The prices set forth in paragraph (a) above apply to tires carrying brand names of manufacturers as follows:

Manufacturer	Brand of passenger-car tires	Brand of truck tires
The Armstrong Rubber Co.		Heatmaster.
Brunswick Tires	Super Quality	Heavy Service.
The Century Tire & Rubber Co.	Deluxe	Commercial Service Rib Tread.
Columbia Tire & Rubber Co.	First Line Deluxe	Columbia—First Line.
The Cooper Corporation	Soft-Aire	All-Duty.
Corduroy Rubber Co.	Universal	Universal.
The Dayton Rubber Manufacturing Co.	Thorobred	Thorobred.
Denman Tire and Rubber Co.	Double Duty	Super Truck and Bus Rib Tread.
Diamond Tires	Superlux	Heavy Service.
Dunlop Tire and Rubber Corporation	Super 107 Gold Cup	Gold Cup Heavy Duty Truck and Bus.
The Falls Rubber Co.	Road Master	Super Rib Truck and Bus.
Federal Tires	Classic	Commercial Double Blue Pennant (Cotton).
The Firestone Tire & Rubber Co.	Champion Deluxe	Transport Heavy Duty.
Fisk Tires	Air Flight Deluxe	Transportation (Cotton).
Fleetwood Tire & Rubber Co.	First Line Deluxe	Fleetwood—First Line.
Ford Motor Co.	Ford	Ford.
G & J Tires	Classic	Stalwart.
The Gates Rubber Co.	Vulco	Vulco Heavy Duty Truck and Bus.
The General Tire & Rubber Co.	New Duel Grip	Super Highway.
The Giant Tire & Rubber Co.	Deluxe	Super Rib Truck and Bus.
Gillette Tires	Ambassador (Cotton)	Super-Ribbed (Cotton).
The B. F. Goodrich Co.	Silvertown Deluxe	Speedliner Heavy Duty.
The Goodyear Tire & Rubber Co.	Deluxe All-Weather	High Miler Rib.
Hood Tires	"400"	Heavy Service.
Inland Rubber Corporation	Heavy Service	Masterpiece.
The Kelly-Springfield Tire Co.	Registered	Registered.
Lee Tire & Rubber Co.	Deluxe	Heavy Duty Special.
McCreary Tire & Rubber Co.	Super Service	Super Service.
The Mansfield Tire & Rubber Co.	Deluxe	Transport—First Line.
Miller Tires	Imperial	Heavy Service.
The Mohawk Rubber Co.	Chief	Chief Bus.
The Monarch Rubber Co.	Noble Deluxe	Truck and Bus Balloon.
National Tire Stores, Incorporated	National	Heavy Duty Truck and Bus Balloon.
The Norwalk Tire & Rubber Co.	N-40	N-6 Rib Traction.
Pennsylvania Rubber Co.	Advanced Deluxe	Universal.
The Pharis Tire & Rubber Co.	Road Gripper Super	Pharis First Line.
The Richland Rubber Co.	Deluxe	Rapid Transit.
F. G. Schenuit Rubber Co.	Schenuit Balloon	First Line Truck and Bus.
Seiberling Rubber Co.	Special Service Deluxe	Special Service—Heat Vented.
United States Rubber Co.	Royal Deluxe	Royal Fleetway.
The United Tire & Rubber Co.	Deluxe	Commercial.

(Table amended by Amendment 6, 7 F.R. 9888)

[4] 7 F.R. 8961.

(c) The maximum retail prices for manufacturers' brands of passenger-car tubes and truck tubes listed in paragraph (d) below shall be:

PASSENGER-CAR TUBES

Size	Price
4.25—12	$2.60
4.50—12	2.60
4.00—15	2.40
5.00—15	2.80
6.50—15	4.25
6.50—15, 7.00—15	4.25
7.00—15	4.30
7.50—15	5.00
8.25—15	6.60
5.00—16	2.65
5.50—16	3.05
6.00—16	3.65
6.00—16, 6.2[illegible]—16	3.65
6.50—16, 7.00—16	4.30
7.50—16	5.20
8.25—16	6.75
5.00—17, 5.25—18, 5.50—18 D. C.	2.75
5.25—17, 5.50—17, 6.00—17, 6.50—17	3.30
7.00—17	4.40
7.00—17, 7.50—17, 7.00—18, 7.50—18	4.40
7.50—17	5.40
5.50—18 FB, 6.00—18, 6.50—18, 5.25—19, 5.50—19, 6.00—19, 6.50—19	3.50
7.50—18	5.45
4.75—19, 5.00—19	2.95
7.50—19	6.00
5.25—20	2.75
5.50—20, 6.00—20	3.90

TRUCK TUBES

Size	Price
7.00—15	4.50
7.50—15	6.75
8.25—15	9.85
9.00—15	11.30
9.75—15, 10.00—15	11.90
6.00—16	3.40
6.50—16	4.05
7.00—16	4.65
7.50—16	6.95
6.00—17	3.80
6.00—17, 6.50—17	3.80
6.50—17	3.80
7.00—17, 7.50—17	4.75
7.50—17	4.75
6.50—18	5.00

TRUCK TUBES—Continued

Size	Price
7.00—18	$4.80
7.50—18 (32 x 7)	8.45
8.25—18	10.00
9.00—18	11.55
9.75—18, 10.00—18	12.25
10.50—18, 11.00—18, 11.25—18, 12.00—18	13.75
5.50—20, 6.00—20 (30 x 5)	4.15
6.00—20 (30 x 5)	4.15
6.50—20 (32 x 6–8)	5.10
6.50—20, 7.00—20	5.10
7.00—20 (32 x 6–10)	6.30
7.00—20 (32 x 6)	6.30
7.50—20 (34 x 7)	8.90
8.25—20	10.25
9.00—20 (36 x 8)	11.75
9.75—20	12.60
9.75—20, 10.00—20 (38 x 9)	12.60
10.50—20, 11.00—20	14.95
11.25—20, 12.00—20	20.00
12.00—20	20.00
12.75—20, 13.00—20, 13.50—20, 14.00—20	26.50
14.00—20	30.80

TRUCK TUBES—Continued

Size	Price
16.00—20	$33.40
8.25—22	10.90
9.00—22	12.25
9.75—22, 10.00—22, 10.50—22	12.95
11.00—22, 11.25—22, 12.00—22	16.05
7.00—24	6.80
7.00—24 (36 x 6)	6.80
7.00—24 (36 x 6)	6.80
7.50—24 (38 x 7)	9.60
8.25—24	11.65
9.00—24 (40 x 8)	12.85
9.75—24, 10.00—24 (42 x 9)	13.40
10.50—24, 11.00—24 (44 x 10)	17.80
11.25—24, 12.00—24	22.30
12.00—24	22.30
12.75—24, 13.00—24	29.50
13.50—24, 14.00—24	35.05
16.00—24	64.15
18.00—24	78.30
21.00—24	123.00
24.00—32	138.85
18.00—40	78.90
30.00—40	402.20
36.00—40	502.15

(d) The prices set forth in paragraph (c) above apply to tubes carrying manufacturers' brand names as follows:

Manufacturer	Brand of passenger-car tubes	Brand of truck tubes
The Armstrong Rubber Co	Heatmaster Deluxe	Heatmaster.
Brunswick Tire & Tubes	Deluxe	Heavy Service (Black).
The Century Tire & Rubber Co	Two Tone Heavy Duty	Century Heavy Duty.
The Cooper Corporation		Long Service.
Corduroy Rubber Co	Universal	Universal.
Cupples Co	Worthmore Deluxe	Worthmore Deluxe Extra Heavy Service.
The Dayton Rubber Manufacturing Co	Thorobred	Thorobred.
Denman Tire and Rubber Co	Mercury	First Line Truck Tubes.
Diamond Tires & Tubes	Superlux	Heavy Service.
Dunlop Tire and Rubber Corporation	Extra H. D. (Red)	
H. B. Egan Manufacturing Co		Camel.
The Falls Rubber Co		Ebonite.
Federal Tires & Tubes	Classic	Double Blue Pennant.
The Firestone Tire & Rubber Co	Deluxe Champion	Transport.
Fisk Tires & Tubes		Transportation.
Ford Motor Co	Ford	Ford.
G & J Tires & Tubes	Classic	Stalwart.
The Gates Rubber Co	Vulco Heavy Duty Red	Vulco Heavy Duty Black.
The General Tire & Rubber Co	Heavy Duty Molded	Heavy Duty Molded.
The Giant Tire & Rubber Co		Super-Rib Truck and Bus.
Gillette Tires & Tubes	Ambassador	Gillette Heavy Service.
The B. F. Goodrich Co	Silvertown	Silvertown.
The Goodyear Tire & Rubber Co	Heavy Duty (Black)	Heavy Duty (Black).
Hood Tires & Tubes	Hood "400"	Heavy Service.
Inland Rubber Corporation	Heavy Duty Red	Heavy Duty.
The Kelly-Springfield Tire Co	Registered	Kelly Black.
Lee Tire & Rubber Co		Heavy Duty Red.
McCreary Tire & Rubber Co		McCreary.
The Mansfield Tire & Rubber Co	Two Tone Heavy Duty	First Line Heavy Duty.
Miller Tires & Tubes	Imperial	Heavy Service.
The Mohawk Rubber Co	Heavy Duty	Heavy Duty.
The Monarch Rubber Co	Noble	Noble.
National Tire Stores, Inc	Safety Rim Fly	Heavy Duty Black.
Pennsylvania Rubber Co	R/X Pinchproof	Pennsylvania.
The Polson Rubber Co	Super Heavy Duty Pinch Proof.	Truck and Bus Super Heavy Duty.
The Richland Rubber Co	Two Tone	Heavy Duty.
F. G. Schenuit Rubber Co	First Line	First Line.
Selberling Rubber Co	Special Service Black	Special Service Black.
United States Rubber Co	Royal Deluxe	Royal.
The United Tire & Rubber Co	Dual Base	Commercial.

(Table amended by Amendment 6, 7 F.R. 9888)

(e) (1) The maximum retail prices for 6.00/6.25—16 passenger-car tubes carrying the brand names of certain manufacturers shall be as follows:

Manufacturer	Brand of passenger-car tubes	Maximum price
Carlisle Tire & Rubber Co.	Greyhound, One Color.	$2.45
Columbia Tire & Rubber Co.	Hold Tite Heavy Duty.	1.95
The Cooper Corporation.	Long Service Deluxe	3.35
The Durkee-Atwood Co.	Red Wing	2.45
H. B. Egan Manufacturing Co.	Camel	2.45
The Falls Rubber Co.	Evergreen	3.05
Fisk Tires & Tubes	Safti-Base	2.75
Fleetwood Tire & Rubber Co.	Heavy Duty Red	1.95
The Giant Tire & Rubber Co.	Deluxe	3.20
Lee Tire & Rubber Co.	Heavy Duty Red	3.35
McCreary Tire & Rubber Co.	Super Heavy Duty	2.75
The Norwalk Tire & Rubber Co.	Extra Heavy Duty Carbon Base Pinch Proof.	2.57
The Pharis Tire & Rubber Co.	Heavy Duty	1.95

(Table amended by Amendment 6, 7 F.R. 9888)

(2) The maximum retail prices for 8.25—20 truck tubes carrying the brand names of certain manufacturers shall be as follows:

Manufacturer	Brand of truck tubes	Maximum price
Carlisle Tire & Rubber Co.	Heavy Duty Truck and Bus.	$7.80
Columbia Tire & Rubber Co.	Columbia Black	7.80
Dunlop Tire and Rubber Corporation.	Gold Cup	9.15
Fleetwood Tire & Rubber Co.	Fleetwood Black	7.80
The Norwalk Tire & Rubber Co.	Extra Heavy Duty Carbon Base.	9.81
The Pharis Tire & Rubber Co.	Heat Proof	7.80

(f) The maximum retail prices for all sizes not included in paragraph (a) shall be calculated for manufacturers' brands of passenger-car tires (4 ply) included in paragraph (b) as follows:

(1) Take the manufacturer's consumer list price in effect November 25, 1941 for the unlisted size of tire and express it as a percentage of the manufacturer's consumer list price of the same date for the 6.00—16 passenger-car tire included in paragraph (b).

(2) Apply this percentage to the maximum price for the 6.00—16 (4 ply) passenger-car tire as shown in paragraph (a).

EXAMPLE: On a November 25, 1941 consumer list for one of the brands of passenger-car tires shown in paragraph (b), the 6.00—16 tire was listed at $15.00. On the same date an odd sized tire was listed at $18.00. Dividing the 18 by the 15, it appears that the odd sized tire was listed at 120 percent of the 6.00—16 size tire. Since the 6.00—16 tire is now not to sell in excess of $14.75, the odd sized tire may not sell in excess of 120 percent of $14.75, or $17.70.

(3) If the manufacturer had no consumer list price in effect November 25, 1941, for the 6.00—16 size of the brand of passenger-car tire included in paragraph (b), the size to be substituted for the 6.00—16 size in making the calculations called for in subparagraphs (1) and (2) above shall be the first one of the following sizes for which there was such a consumer list price:

5.25/5.50—17	6.25—16
6.50—16	7.00—15
4.75/5.00—19	5.50—16
5.25/5.00—18	6.50—15
7.00—16	6.00—17

(g) The maximum retail prices for all sizes not included in paragraph (a) shall be calculated for manufacturers' brands of truck tires (10 ply) included in paragraph (b) as indicated in paragraph (f), except that the 8.25—20 truck-tire shall replace the 6.00—16 passenger-car tire in making the calculations. If the manufacturer had no consumer list price in effect November 25, 1941, for the 8.25—20 size of the brand of truck tire included in paragraph (b), the size to be substituted for the 8.25—20 size in making the calculations shall be the first one of the following sizes for which there was such a consumer list price:

7.00—20 (32 x 6)	8.25—18
7.50—20 (34 x 7)	7.50—18 (32 x 7)
9.00—20	9.00—24
7.50—24 (38 x 7)	9.00—22

(h) The maximum retail prices for all sizes not included in paragraph (c) shall be calculated for manufacturer's brands of passenger-car and truck tubes included in paragraph (d) as indicated in paragraph (f), using the appropriate price for the 6.00—16 size tube in all calculations for passenger-car tubes and the appropriate price for the 8.25—20 size tube for truck tubes. The same calculations shall be made for all sizes not specified in paragraph (e) of the brands included in that paragraph. If the manufacturer had no consumer list price in effect November 25, 1941, for the 6.00—16 size passenger-car tube or for the 8.25—20 size truck tube of the appropriate brand to be used in the calculations, the size to be substituted for either of such sizes in making the calculations shall be the first one of the following passenger-car or truck sizes, as the case may be, for which there was such a consumer list price:

PASSENGER-CAR SIZES

6.00—16	4.75—19
6.25—16	5.00—19
5.25—17	5.00—17
5.50—17	5.25—18
6.00—17	5.50—18DC
6.50—17	7.00—15
6.50—16	5.50—16
7.00—16	

TRUCK SIZES

7.00—20	8.25—18
7.00—20 (32 x 6)	7.50—18 (32 x 7)
7.50—20 (34 x 7)	9.00—24 (40 x 8)
9.00—20 (36 x 8)	9.00—22
7.50—24 (38 x 7)	

(i) The maximum retail prices for all other lines, levels, qualities, or weights of passenger-car and truck tires and tubes sold under manufacturers' brands of the manufacturers listed in paragraphs (b), (d), and (e) for which maximum retail prices are not specifically fixed by Price Schedule No. 63 shall be calculated as follows:

(1) Take the manufacturer's consumer list price in effect November 25, 1941, for the particular brand, line, level, quality, or weight of tire or tube for which no maximum price is specifically fixed by Price Schedule No. 63 and express it as a percentage of the manufacturer's consumer list price of the same date for the corresponding size of the brand of this manufacturer for which a maximum price is specifically fixed by Price Schedule No. 63.

(2) Apply this percentage to the maximum price, for the corresponding size, set forth in paragraph (a), for tires, and paragraphs (c) and (e), for tubes.

EXAMPLE: On a November 25, 1941 manufacturer's consumer list for one of the brands of passenger-car tires shown in paragraph (b), the 6.00—16 size (4 ply) was listed at $16.00. On the same date the 6.00—16 size (4 ply) of a lower quality brand of the same manufacturer had a list price of $12.00. Dividing the 12 by the 16, it appears that the lower quality brand was listed at 75 percent of the price of the brand listed in paragraph (b). Since the 6.00—16 size (4 ply) of the brand listed in paragraph (b) is now to sell not in excess of $14.75, the 6.00—16 size (4 ply) of the lower quality brand may not sell in excess of 75 percent of $14.75 or $11.05.

(3) If for any particular size of a brand, line, level, quality or weight of tire or tube for which no maximum price is specifically fixed herein, there is no corresponding size on the consumer list price in effect November 25, 1941 for the brand of this manufacturer for which a maximum price is specifically fixed herein, the maximum price for such size of such brand for which no maximum price is specifically fixed shall be determined by using the 6.00—16 size for passenger-car tires or tubes and the 8.25—20 size for truck tires or tubes in the calculations called for in subparagraphs (1) and (2) above, and maintaining the same relationship between such other size and the 6.00—16 size or the 8.25—20 size, as the case may be of the brand for which no maximum price is specifically fixed as existed between such sizes on the November 25, 1941 consumer list price for such brand.

(4) If the manufacturer had no consumer list price in effect November 25, 1941, for the 6.00—16 size passenger-car tire or tube or for the 8.25—20 size truck tire or tube of the appropriate brand to be used in the calculations under this paragraph, the size to be substituted for either of such sizes in making the calculations shall be the first size for which there was such a consumer list price among the sizes occurring in the appropriate list of passenger-car or truck tire

or tube sizes set forth for a similar purpose in paragraphs (f), (g) and (h).

(j) The maximum retail prices for manufacturers' brands of passenger-car tires other than 4 ply and truck tires other than 10 ply shall be calculated to maintain the relationship expressed in paragraph (i) above.

(k) For manufacturers who did not use a consumer list for quoting prices on November 25, 1941, the calculations of the percentages called for in paragraphs (f), (g), (h), (i), and (j), shall be made on the basis of the manufacturer's selling price list.

(Paragraph (k) amended by Amendment 6, 7 F.R. 9888)

(l) The maximum retail prices for manufacturers' brands of passenger-car and truck tires and tubes owned by manufacturers not listed in paragraphs (b), (d), and (e) shall be those given in paragraph (a) for tires and paragraph (c) for tubes.

(m) Notwithstanding any other provision of paragraphs (a) to (l) inclusive, the maximum retail prices for the following brands of tires and tubes owned by the following manufacturers shall be as follows:

(1) The Armstrong Rubber Company: Maximum prices for the "Streamline" brand of passenger-car tires for all sizes listed in paragraph (a) shall be the prices listed in paragraph (a), with other sizes determined according to the method set forth in paragraph (f). Maximum prices for the 6.00—16, (4 ply) "Air Coaster" and "Standard" brands of passenger-car tires shall be $12.90 and $10.05, respectively. Other sizes and plies of these brands shall remain in the same percentage relationship to these prices as they bore on the Armstrong Rubber Company's Consumer Price List in effect on November 25, 1941.

(2) United States Rubber Company: (i) Maximum prices for the "U. S. Royal Master" and Fisk "Safti-Flight" brands of passenger-car tires shall be the consumer list prices for those brands on file with the Office of Price Administration which were in effect on November 25, 1941.

(ii) Maximum prices for the "Federal Special Service" and "Gillette Special Service" brands of truck tires in the following sizes shall be:

Size	Ply	Maximum price
8.25–20	12	$83.20
9.00–20	12	100.90
10.00–20	14	125.65
11.00–20	14	154.90

(Subparagraph (2) amended by Amendment 6, 7 F.R. 9888)

(n) Notwithstanding any other provisions of this section, on and after April 25, 1942, the maximum retail prices for manufacturers' brands of passenger-car tires and tubes shall be 16% greater than the maximum prices determined for such tires or tubes according to paragraphs (a) to (m), inclusive, of this section.

(o) (1) Notwithstanding any other provisions of this section, the maximum retail prices for any manufacturers' brands of Exhibit C passenger-car tires and tubes shall be determined according to whichever of the following subdivisions (i) or (ii) is applicable. The maximum retail prices established by this paragraph shall supersede any higher or different maximum prices which may have been established for such tires or tubes by paragraphs (a) to (n) of this section.

(i) If the Exhibit C filed with the Office of Price Administration on which the particular tires or tubes are listed sets forth consumer list prices, the maximum retail prices shall be the prices set forth on the Exhibit C list, without deducting the 20, 40, and 60% discount prescribed by the Exhibit C, for tires or tubes of the same brand and size.

(ii) If the Exhibit C filed with the Office of Price Administration on which the particular tires or tubes are listed sets forth net wholesale prices, the maximum retail prices shall be determined by taking the maximum retail prices in effect under paragraphs (a) to (m) of this section, for the tires or tubes of the same manufacturer which are most comparable as to type, quality, and size, and adjusting such price in accordance with the price differentials prevailing in the industry on March 1, 1942, for differences in brand, type, quality and size.

(2) It shall be the duty of the seller to determine which of the tires or tubes he is selling appear on the Exhibit C filed with the Office of Price Administration by the manufacturer thereof, the prices set forth for such tires or tubes on the Exhibit C list, whether such prices are consumer list prices or net wholesale prices, and any other information which is necessary to enable the seller to determine the maximum retail prices for Exhibit C passenger-car tires or tubes under subparagraph (1) of this paragraph. Such information can ordinarily be obtained from the manufacturer of the tires and tubes involved. All such information can be obtained by any seller by writing to the Office of Price Administration, Washington, D. C., where an accurate Exhibit C for each manufacturer is on file and available for inspection at all times.

(p) The maximum retail prices for manufacturers' brands of tires and tubes for special purpose trucks and busses, off-the-road equipment, industrial and commercial tractors, trailers, industrial equipment, farm implements and motorcycles, shall be calculated according to the method set forth in paragraphs (f), (g), and (h) of this section, using as the basis for calculating, the 6.00—16 or 8.25—20 size tire or tube as specified by those paragraphs. The paragraph to be used shall be the one which specifies the type of tire or tube most nearly comparable to the tire or tube for which a maximum retail price is being calculated.

§ 1315.111 *Appendix B: Maximum retail prices for private brands of new rubber tires and tubes.* The following prices are the maximum prices that may be charged at retail for new rubber tires or tubes at the seller's place of business. The maximum prices set forth herein may not be exceeded for any such sale, even though in a particular case no used tire or tube is traded in. If a used tire or tube is traded in, the trade-in allowance shall be deducted from the maximum price.

The actual dollar amount of the Federal Excise Tax paid on any tire or tube may in each case be added to the maximum price established by Price Schedule No. 63.

(a) The maximum retail prices for private brands of passenger-car tires (4 ply) and truck tires (10 ply) listed in paragraph (b) below shall be:

PASSENGER-CAR TIRES

Size	*Price*
4.50—12	$8.20
4.00—15	7.00
5.00—15	9.70
6.50—15	15.75
7.00—15	17.80
8.25—15	25.35
5.00—16	9.65
5.50—16	11.85
6.00—16	13.25
6.25—16	14.95
6.50—16	16.10
7.00—16	18.30
7.50—16	23.20
5.25/5.50—17	12.20
6.00—17	14.40
5.25/5.50—18	11.10
6.00—18	15.50
4.75/5.00—19	9.95
5.25—20	13.60

TRUCK TIRES

8.25—15	61.65
7.50—18 (32 x 7)	55.90
8.25—18	59.15
9.00—18	70.30
10.50/11.00—18	95.40
7.00—20 (32 x 6)	42.75
7.50—20 (34 x 7)	57.05
8.25—20	60.90
9.00—20	72.65
8.25—22	65.15
9.00—22	76.25
7.00—24 (36 x 6)	49.60
7.50—24 (38 x 7)	64.00
8.25—24	68.75
9.00—24	79.35

(b) The prices set forth in paragraph (a) apply to tires carrying brand names of distributors as follows:

Distributor	Brand of passenger-car tires	Brand of truck tires
A-1 Tire Co	Auburn Deluxe	
Abel Sales Corporation	Custombilt	
Ajax Tire and Rubber Corporation	A-100 Safety	Custom Built "RNS" Torture Type.
Albert Tire Co	Silver Eagle	
American Tire Alliance	Aristocrat	All-Service.
Apex Tire Inc	Safety Deluxe	Regular Tread Balloon.
Arkansas Fuel Oil Co	Milemaster	Speedmaster.
Atlas Supply Co	Atlas Grip Safe	Atlas Truck-Coach (Cotton).
Banner Tire Co	Belmont Master	
W. H. Barber Co	Ingersoll Heavy Duty Black	Highway Transport.

Distributor	Brand of passenger-car tires	Brand of truck tires
Bareco Oil Co	Be Square Supreme Rib Tread.	Be Square Balloon Truck.
Belknap Hardware & Manufacturing Co	Belknap Deluxe	Extra Heavy Duty Ribbed. Traction.
Broadway Tire Co	Carnegie Custom-Master	Carnegie Custom-Master.
The Brown Fence & Wire Co	First Line	Stop Skid.
Burke-Savage Tire Co	Silver Eagle	
Butler Brothers	Cunningham	Cunningham Oversize Heavy Duty.
Ceazan Tires, Ltd	Scout	
Certified Brands, Inc	Certified Deluxe	
Champlin Refining Co	Super Deluxe Custom Built	Champlin Super Deluxe.
Cities Service Oil Co	Mile Masters	Speedmaster.
Coast to Coast Stores	Super Safe-Flex	
Cooperative Distributors, Inc	"Californian First Liner"	
Cooperative G. L. F. Farm Supplies, Inc	Super Unico	Unico Truck.
Cooperative Seed & Farm Supply Service, Inc.	do	Do.
Direct Service Oil Co	Viking	
Englert Tire & Rubber Co	Gold Seal Standard	Gold Seal Truck and Bus Balloon.
Farm Bureau Cooperative Association, Inc.	Super Unico	Unico Truck.
Farm Bureau Services, Inc	do	Do.
Farmers Cooperative Exchange, Inc	do	Do.
Gamble Stores	Crest Deluxe	Super Crest Speed Special (Cotton).
The Globe Oil & Refining Co	Rocket	Rocket Truck.
Goldblatt Brothers, Inc	Apollo Supreme	
Hardware Associates, Inc	Ever Best Master Premium	Ever Best Truck and Bus Balloon.
Hibbard, Spencer, Bartlett & Co	O. V. B. Deluxe	Hibbard Heavy Duty.
Hicks Rubber Co., Inc	Lone Star	Star Masterpiece.
Illinois Farm Supply Co	Master	Master Rib.
Imperial Tire Co	Lafayette Deluxe	
Kotzen Tire Co	Mallory Deluxe	
Marshall-Wells Co	Zenith Super Safe	Zenith Streamliner.
Montgomery Ward & Co	Riverside Deluxe	Riverside First Quality—Non-Skid.
Moore's Auto Accessories	Deluxe	
Murray Tire and Rubber Corporation (New York).	Gear Grip Tread M-100	Custom Built "RNS" Torture Type.
Northern Tire & Rubber Co	Ranger	
Ohio Oil Co	Linco Deluxe	Linco J-1 Truck and Bus Balloon.
Pennsylvania Farm Bureau Co-operative Association.	Super Unico	Unico Truck.
The Pep Boys	Cornell Clipper	Cornell Super Service.
Richmond Rubber Co., Inc	Mile Master Deluxe	Super Miler.
S. & M. Tire & Auto Supply Co	Gold Medal Deluxe	Gold Medal—100 level.
Savenick's	Savoy Master	
Savoy Rubber Co	Savoy Master	
Sears, Roebuck & Co	Allstate Deluxe	Allstate Deluxe Non Skid.
Shapleigh's Hardware Co	Shapleigh Deluxe	Shapleigh Transport Balloon Truck.
Sobol Bros	Oxford Deluxe	
Southern States Cooperative, Inc	Super Unico	Unico Truck.
Spiegel, Inc	Argyle Mainliner	Caravan.
The Standard Rubber Co		Truck Balloon.
Standard Tire & Battery Co	Silver Eagle	
Strauss Stores Corporation	Regal Custom & Safety Built.	
Triplex Tire Co	Streamline (4 ply)	
Tru Test Marketing & Merchandising Corporation.	Tru Test Super	Tru Test Truck and Bus.
United Co-operatives, Inc	Super Unico	Unico Truck.
United Tire Co	Savoy "Master"	
Vanderbilt Tire & Rubber Co	Vanderbilt First Line (4 ply).	Vanderbilt Deluxe Truck-Bus.
Vanguard Tire & Rubber Co	Super Vanguard	
Vogue Rubber Co	Ritz	
Western Auto Supply Co. (Los Angeles, Calif.).	Western Giant Double Duty.	Western Giant Truck.
Western Auto Supply Co. (Kansas City, Mo.).	Super Safety	Davis High Speed.
Westminster Tire Corporation	Life Protector K-100	Custom Built "RNS" Torture Type.
Wisconsin Co-op Farm Supply Co	Master	Master Rib.
World Tire Corporation (St. Louis, Mo.)	Auburn Deluxe	
World Tire Corporation (Toledo, Ohio)	Douglas Super Liner	

(Table amended by Amendment 6, 7 F.R. 9888 and Amendment 7)

(c) The maximum retail prices for private brands of passenger-car and truck tubes listed in paragraph (d) below shall be:

PASSENGER-CAR TUBES

Size	Price
4.25—12	$1.40
4.50—12	1.40
4.00—15	1.30
5.00—15	1.50
6.50—15	2.25
6.50—15 7.00—15	2.25
7.00—15	2.30
7.50—15	2.65
8.25—15	3.55
5.00—16	1.40
5.50—16	1.65
6.00—16	1.95
6.00—16 6.25—16	1.95
6.50—16 7.00—16	2.30

PASSENGER-CAR TUBES—Continued

Size	Price
7.50—16	$2.80
8.25—16	3.60
5.00—17 5.25—18 5.50—18 D. C.	1.45
5.25—17 5.50—17 6.00—17 6.50—17	1.75
7.00—17	2.35
7.00—17 7.50—17 7.00—18 7.50—18	2.35
7.50—17	2.90
5.50—18 FB 6.00—18 6.50—18 5.25—19 5.50—19 6.00—19 6.50—19	1.85
7.50—18	2.90
4.75—19 5.00—19	1.60

PASSENGER-CAR TUBES—Continued

Size	Price
7.50—19	$3.20
5.25—20	1.45
5.50—20 6.00—20	2.10

TRUCK TUBES

Size	Price
7.00—15	3.40
7.50—15	5.15
8.25—15	7.50
9.00—15	8.60
9.75—15 10.00—15	9.05
6.00—16	2.60
6.50—16	3.10
7.00—16	3.55
7.50—16	5.30
6.00—17	2.90
6.00—17 6.50—17	2.90
6.50—17	2.90
7.00—17 7.50—17	3.60
7.50—17	3.60
6.50—18	3.80
7.00—18	3.65
7.50—18 (32 x 7)	6.45
8.25—18	7.60
9.00—18	8.80
9.75—18 10.00—18	9.30
10.50—18 11.00—18	10.45
11.25—18 12.00—18	14.40
5.50—20 6.00—20 (30 x 5)	3.15
6.00—20 (30 x 5)	3.15
6.50—20 (32 x 6-8)	3.90
6.50—20 7.00—20	3.90
7.00—20 (32 x 6-10)	4.80
7.00—20 (32 x 6)	4.80
7.50—20 (34 x 7)	6.75
8.25—20	7.80
9.00—20 (36 x 8)	8.95
9.75—20	9.60
9.75—20 10.00—20 (38 x 9)	9.60
10.50—20 11.00—20	11.40
11.25—20 12.00—20	15.20
12.00—20	15.20
12.75—20 13.00—20	20.15
13.50—20 14.00—20	23.45
16.00—20	25.40
8.25—22	8.30
9.00—22	9.30
9.75—22 10.00—22	9.85
10.50—22 11.00—22	12.20
11.25—22 12.00—22	16.45
7.00—24	5.15
7.00—24 (36 x 6)	5.15
7.00—24 (36 x 6)	5.15
7.50—24 (38 x 7)	7.30
8.25—24	8.85
9.00—24 (40 x 8)	9.80
9.75—24 10.00—24 (42 x 9)	10.20
10.50—24 11.00—24 (44 x 10)	13.55
11.25—24 12.00—24	16.95
12.00—24	16.95
12.75—24 13.00—24	22.45
13.50—24 14.00—24	26.65
16.00—24	48.80
18.00—24	59.60
21.00—24	93.60
24.00—32	105.65

TRUCK TUBES—Continued

Size	*Price*
18.00—40	$60. 05
30.00—40	306. 05
86.00—40	382. 10

(d) The prices set forth in paragraph (c) above apply to tubes carrying distributors' brand names as follows:

Distributor	Brand of passenger-car tubes	Brand of truck tubes
A-1 Tire Co	Defender Heavy Duty Black.	
Abel Sales Corporation	Senator	
Ajax Tire and Rubber Corporation	Red Molded, Black Molded.	Black Standard.
Apex Tire, Inc	Heavy Duty Red	Truck Tube.
Arkansas Auto Supply	Gridiron	Gridiron
Arkansas Fuel Oil Co	Standard	Standard.
Atlas Supply Co	Junior Atlas Red and Black.	
Auto Spring & Bearing Co., Inc	American	American.
W. H. Barber Co	Ingersoll Heavy Duty Black.	Greater Service Heavy Duty Red.
Bareco Oil Co	Be Square	Be Square.
Belknap Hardware & Manufacturing Co	Standard Heavy Duty	Speedmore.
Joseph L. Bickerstaff's Sons, Inc	Bickerstaff Deluxe	Bickerstaff Deluxe.
Bohnett Tire Co		Bohnett Heat Resisting.
Braxton Motor Co	Mountaineer Heavy Duty Ten-Black Pinchproof.	Mountaineer Heavy Duty.
Broadway Tire Co	Fulton Black	Fulton Heavy Duty Black.
Brooklyn Tire Exchange	United Super Master Quality.	United Super Master Heavy Duty.
The Brown Fence & Wire Co	Red Extra Heavy	Black Extra Heavy.
Bruck Tire Co	Loraine Heavy Duty	
Burke-Savage Tire Co	Silver Eagle Heavy Duty	Silver Eagle Pinch Proof Deluxe.
Burner and Williams	B. & W. Tutone	
Butler Brothers		Cunningham Heavy Duty.
Butler Chain Co., Inc	Regular	Regular.
Capitol Auto Stores	Capitol	
Certified Brands, Inc	Certified Heavy Duty	Certified Heavy Duty.
Champlin Refining Co	Extra Quality	Deluxe.
Cities Service Oil Co	Standard	
Coast to Coast Stores	Safe-Flex Red and Black	Safe-Flex Black.
Cooperative G. L. F. Farm Supplies, Inc	Unico Heavy Duty Tube	Unico Truck.
Cooperative Oil Association, Inc	COA Super Quality	COA Super Quality.
Cooperative Seed & Farm Supply Service, Inc.	Unico Heavy Duty Tube	Unico Truck.
Dell Tire Corporation	Dell	Dell.
Dempsey & Sanders	Hi-ten	
Dickel Distributing Co	Majestic	Majestic.
Eagle Tire Co	Vulcan Heavy Duty Red	
Farm Bureau Cooperative Association, Inc	Unico Heavy Duty Tube	Unico Truck.
Farm Bureau Services, Inc	Unico Heavy Duty Tube	Unico Truck.
Farmers Cooperative Exchange, Inc	Unico Heavy Duty Tube	Unico Truck.
Franklin Auto Supply	Ben Franklin Regular	Ben Franklin.
Fritz Auto Parts Co	Leader	Leader.
Gamble Stores	Crest Standard	Crest Truck.
The Globe Oil & Refining Co	Rocket Passenger-Car Tube.	Rocket Truck Tube.
Goldblatt Brothers, Inc	Apollo Extra Duty	
M. Greenberg & Sons		M. G. & S.
Harbison & Gathright, Inc	H. & G. Deluxe	H. & G. Deluxe.
Hardware Associates Inc	Ever Best Heavy Duty	Ever Best Heavy Duty.
Hercules Specialty Co	Hercules	Hercules Pinch Proof.
Hicks Rubber Co., Inc	Meteor Red	
Willard A. Hill Organization	New Yorker Heavy Duty Black.	New Yorker Heavy Duty Black.
Hollander Auto Stores	Victory	
Hoover Tire Co		Hoover Heavy Duty Chief.
Illinois Farm Supply Co	Ace	Master Truck.
Imperial Tire Co	Lafayette Heavy Duty	
Levin's Auto Supply Co	Ven Ness Deluxe Red and Black.	Van Ness Deluxe Red and Black.
London Tire Co., Inc	Mitchell	Mitchell.
Main Street Service Station	Main Street Service Station.	
Markey Supply Co	Marco	Marco.
Marshall-Wells Co	Zenith Deluxe	Zenith Deluxe.
Model Tire Store, Inc	Model	Model.
Montgomery Ward & Co	Riverside	Riverside.
Moore-Handley Hardware Co	Morhand	Morhand
Murray Tire and Rubber Corporation (New York).	Red Molded, Black Molded.	Black Standard.
Myhand & Holtrey	M. & H. Premium	M. & H. Premium.
Ninth Street Tire & Battery Service		Super Chief.
Peerless Auto Supply Co	Peerless	Peerless.
Pennsylvania Farm Bureau Co-operative Association.	Unico Heavy Duty Tube	Unico Truck.
The Pep Boys	Cornell Deluxe	Cornell.
Richmond Rubber Co., Inc	Ultra Heavy Duty	Ultra Heavy Duty.
Roth-Schlenger, Inc	Spaulding Pinch Proof	
S. & M. Tire & Auto Supply Co	Gold Medal	Gold Medal Heat Resisting Heavy Duty Black.
Savoy Rubber Co		Savoy.
Sears, Roebuck & Co		Allstate Deluxe.
Shapleigh's Hardware Co		Good Service Truck and Bus.
Skinner Tire & Rubber Co	Red Devil Heavy Duty Pinchproof.	All-Red Heavy Duty.
Sobol Bros	Oxford Heavy Duty	
Southern States Cooperative, Inc	Unico Heavy Duty Tube	Unico Truck.
Spiegel, Inc	Argyle Heavy Duty	Caravan.
Strauss Stores Corporation	Regal Heavy Duty Black	
Times Square Stores Corporation	Michigan	
Tru Test Marketing & Merchandising Corporation.	Standard Red	
United Co-operatives, Inc	Unico Heavy Duty Tubes	Unico Truck.
Valley Oil & Tire Co	Valtire	Valtire.
Vanguard Tire & Rubber Co	Vanguard Red	Vanguard Truck and Bus.
Western Auto Supply Co., (Los Angeles, Calif.)		Jumbo Black.
Western Auto Supply Co., (Kansas City, Mo.)	Standard	Davis Truck.
Westminster Tire Corporation	Red Molded, Black Molded.	Black Standard.
Wisconsin Co-op Farm Supply Co	Ace	Master Truck.
World Tire Corporation (St. Louis, Mo.)	Defender Heavy Duty Black.	Mainliner Heavy Duty Red.
World Tire Corporation (Toledo, Ohio)	Mainliner Red	Heavy Duty Red.

(Table amended by Amendment 6, 7 F.R. 9888 and Amendment 7)

(e) (1) The maximum retail prices for 6.00/6.25—16 passenger-car tubes carrying the brand names of certain distributors shall be as follows:

Distributor	Brand of passenger-car tubes	Maximum price
Advance Auto Supply Co.	Advance	$2. 30
Albert Tire Co	Silver Eagle Heavy Duty.	2. 75
American Tire Alliance	Tri-Flex	2. 15
Banner Tire Co	Kenmore	2. 45
Bohnett Tire Co	Bohnett Heat Resisting.	2. 32
Butler Brothers	Cunningham	2. 30
Englert Tire & Rubber Co.	Red Seal	2. 60
Hibbard, Spencer, Bartlett & Co.	Hibbard True Value	2. 11
Hoover Tire Co	Hoover Heavy Duty Chief.	3. 60
W. E. Johnson & Co	Johnson Heavy Duty Red.	2. 29
Martin & Criswell	Martin & Criswell Heavy Duty.	2. 75
Moore's Auto Accessories.	Deluxe	2. 45
Ninth Street Tire & Battery Service.	Standard Chief	2. 75
Ohio Oil Co	Regular	2. 11
Opelle Tire Co	Opelle Heavy Duty	3. 65
Phillips Petroleum Co	Unique	1. 44
Savenick's	Savoy Heavy Duty	2. 75
Savoy Rubber Co	Savoy Heavy Duty	2. 75
Sears, Roebuck & Co	Allstate Extra Heavy Red.	2. 20
Serber Rubber Co., Inc	Superba	3. 65
Shapleigh's Hardware Co.	Good Service	2. 11
Standard Supply & Tire Corporation.	Rich-lin	2. 40
Sweet & Long	Sweet & Long	2. 60
Tanner Service Station	Tanner Heavy Duty	2. 91
Thompson & Ducey	Thompson & Ducey Heavy Duty.	2. 80
Triplex Tire Co	Extra Heavy Hi-Tex Pinch Proof.	3. 45
United Tire Co	Savoy Red Passenger	2. 75
Vanderbilt Tire & Rubber Co.	Vanderbilt De Luxe	2. 45
Vogue Rubber Co	Red Pinch Proof	5. 10
Western Auto Supply Co. (Los Angeles, Calif.).	Giant Brown	2. 15

(Table amended by Amendment 6, 7 F.R. 9888 and Amendment 7)

(2) The maximum retail prices for 8.25—20 truck tubes carrying the brand names of certain distributors shall be as follows:

Distributor	Brand of truck tubes	Maximum price
Albert Tire Co	Silver Eagle Heavy Duty.	$10. 25
American Tire Alliance	All Service Truck and Bus.	10. 25
Atlas Supply Co	Truck Coach Tube	8. 95
Cities Service Oil Co	Acme Heavy Service	10. 25
Eagle Tire Co	Vulcan	10. 25
Englert Tire & Rubber Co.	Gold Seal	9. 65
Fordham Tire Co. (Vanderbilt Tire Co.).	Vanderbilt Truck and Bus Tube.	10. 25
Hicks Rubber Co., Inc	Star Deluxe	10. 25
Indiana Farm Bureau Cooperative Association, Inc.	Super Heavy Duty Black.	10. 25
W. E. Johnson & Co	Johnson Heavy Duty Red.	8. 59
Ohio Oil Co	Linco Truck and Bus	9. 32
Serber Rubber Co., Inc	Superba	10. 25
Standard Rubber Co	Heavy Duty Black	10. 25
Standard Supply & Tire Corporation.	Rich-lin	9. 36
Tru Test Marketing & Merchandising Corporation.	Heavy Service	8. 75
Vanderbilt Tire & Rubber Co.	Vanderbilt Truck and Bus Tube.	10. 25

(Table amended by Amendment 6, 7 F.R. 9888 and Amendment 7)

(f) The maximum retail prices for all sizes not included in paragraph (a) shall be calculated for the private brands of passenger-car tires (4 ply) included in paragraph (b) as follows:

(1) Take the consumer list price in effect November 25, 1941, for the unlisted size of tire and express it as a percentage of the consumer list price of the same date for the 6.00—16 passenger-car tire included in paragraph (b).

(2) Apply this percentage to the maximum price for the 6.00—16 (4 ply) passenger-car tire as shown in paragraph (a).

EXAMPLE: On a November 25, 1941, consumer list for one of the brands of passenger-car tires shown in paragraph (b) the 6.00—16 tire was listed at $12.00. On the same date an odd-size tire was listed at $14.40. Dividing the 14.40 by the 12, it appears that the odd-size tire was listed at 120 percent of the 6.00—16 size tire. Since this 6.00—16 tire is now not to sell in excess of $13.25, the odd size may not sell in excess of 120 percent of $13.25 or $15.90.

(3) If there was no consumer list price in effect November 25, 1941, for the 6.00—16 size of the brand of passenger-car tire included in paragraph (b), the size to be substituted for the 6.00—16 size in making the calculations called for in subparagraphs (1) and (2) above shall be the first one of the following sizes for which there was such a consumer list price:

5.25/5.50—17	6.25—16
6.50—16	7.00—15
4.75/5.00—19	5.50—16
5.25/5.50—18	6.50—15
7.00—16	6.00—17

(g) The maximum retail prices for all sizes not included in paragraph (a) shall be calculated for private brands of truck tires (10 ply) included in paragraph (b), as indicated in paragraph (f) except that the 8.25—20 truck tire shall replace the 6.00—16 passenger-car tire in making the calculation. If there was no consumer list price in effect November 25, 1941, for the 8.25—20 size of the brand of truck tire included in paragraph (b), the size to be substituted for the 8.25—20 size in making the calculations shall be the first one of the following sizes for which there was such a consumer list price:

7.00—20 (32 x 6)	8.25—18
7.50—20 (34 x 7)	7.50—18 (32 x 7)
9.00—20	9.00—24
7.50—24 (38 x 7)	9.00—22

(h) The maximum retail prices for all sizes not included in paragraph (c) shall be calculated for private brands of passenger-car and truck tubes included in paragraph (d) as indicated in paragraph (f), using the appropriate price for the 6.00—16 size tube in all calculations for passenger-car tubes and the appropriate price for the 8.25—20 size tube for truck tubes. The same calculations shall be made for all sizes not specified in paragraph (e) of the brands included in that paragraph. If there was no consumer list price in effect November 25, 1941, for the 6.00—16 size passenger-car tube or for the 8.25—20 size truck tube of the appropriate brand to be used in the calculations, the size to be substituted for either of such sizes in making the calculations shall be the first one of the following passenger-car or truck sizes, as the case may be, for which there was such a consumer list price:

Passenger-Car Sizes	
6.00—16	4.75—19
6.25—16	5.00—19
5.25—17	5.00—17
5.50—17	5.25—18
6.00—17	5.50—18 DC
6.50—17	7.00—15
6.50—16	5.50—16
7.00—16	

Truck Sizes	
7.00—20	8.25—18
7.00—20 (32 x 6)	7.50—18 (32 x 7)
7.50—20 (34 x 7)	9.00—24 (40 x 8)
9.00—20 (36 x 8)	9.00—22
7.50—24 (38 x 7)	

(i) The maximum retail prices for all other lines, levels, qualities or weights of passenger-car and truck tires and tubes sold under private brands by the distributors listed in paragraphs (b), (d), and (e) for which maximum retail prices are not specifically fixed by Price Schedule No. 63 shall be calculated as follows:

(1) Take the consumer list price in effect November 25, 1941, for the particular brand, line, level, quality or weight of tire or tube for which no maximum price is specifically fixed by Price Schedule No. 63 and express it as a percentage of the consumer list price of the same date for the corresponding size of the brand of this distributor for which a maximum price is specifically fixed by Price Schedule No. 63.

(2) Apply this percentage to the maximum price, for the corresponding size, set forth in paragraph (a), for tires, and paragraphs (c) and (e), for tubes.

EXAMPLE: On a November 25, 1941, consumer list for one of the brands of passenger-car tires shown in paragraph (b), the 6.00—16 size (4 ply) was listed at $14.00. On the same date the 6.00—16 size (4 ply) of a lower quality private brand tire handled by the same distributor had a list price of $11.20. Dividing the $11.20 by the 14, it appears that the lower quality brand was listed at 80 percent of the price of the brand listed in paragraph (b). Since the 6.00—16 size (4 ply) of the brand listed in paragraph (b) is now not to sell in excess of $13.25, the 6.00—16 size (4 ply) of the lower quality brand may not sell in excess of 80 percent of $13.25 or $10.40.

(3) If for any particular size of a brand, line, level, quality or weight of tire or tube for which no maximum price is specifically fixed herein, there is no corresponding size on the consumer list price in effect November 25, 1941, for the brand of this distributor for which a maximum price is specifically fixed herein, the maximum price for such size of such brand for which no maximum price is specifically fixed shall be determined by using the 6.00—16 size for passenger-car tires or tubes and the 8.25—20 size for truck tires or tubes in the calculations called for in subparagraphs (1) and (2) above, and maintaining the same relationship between such other size and the 6o00—16 size or the 8.25—20 size, as the case may be, of the brand for which no maximum price is specifically fixed, as existed between such sizes in the November 25, 1941, consumer list price for such brand.

(4) If there was no consumer list price in effect November 25, 1941, for the 6.00—16 size passenger-car tire or tube or for the 8.25—20 size truck tire or tube of the appropriate brand to be used in the calculations under this paragraph, the size to be substituted for either of such sizes in making the calculations shall be the first size for which there was such a consumer list price among the sizes occurring in the appropriate list of passenger-car or truck tire or tube sizes set forth for a similar purpose in paragraphs (f), (g) and (h).

(j) The maximum retail prices for private brands of passenger-car tires other than 4 ply and truck tires other than 10 ply shall be calculated to maintain the relationship expressed in paragraph (i) above.

(k) For private brand distributors who did not use a consumer list for quoting prices on November 25, 1941, the calculations of the percentages called for in paragraphs (f), (g), (h), (i), and (j), shall be made on the basis of wholesale price lists.

(Paragraph (k) amended by Amendment 6, 7 F.R. 9888)

(l) The maximum retail prices for private brands of passenger-car and truck tires and tubes owned by distributors not listed in paragraphs (b), (d), and (e) shall be those given in paragraph (a) for tires and paragraph (c) for tubes.

(m) Notwithstanding any other provision of paragraphs (a) to (l) inclusive, the maximum retail prices for the following brands of tires and tubes owned by the following private brand distributors shall be as follows:

(1) Triplex Tire Company: Maximum prices for all brands of passenger-car and truck tires shall be the consumer price list of the company on file with the Office of Price Administration which was in effect on September 30, 1941.

(2) National Co-operatives, Inc.: Maximum prices for all brands of passenger-car and truck tires and tubes shall be those set forth on the list of maximum retail prices filed pursuant to this subparagraph with the Division of the Federal Register.[5] Such list of maximum retail prices is available at any district, state, or regional office of the Office of Price Administration or its principal office in Washington, D. C.

(Paragraph (m) amended by Amendment 6, 7 F.R. 9888)

(n) Notwithstanding any other provisions of this section, on and after April 25, 1942, the maximum retail prices for private brands of passenger-car tires and tubes shall be 16% greater than the maximum prices determined for such tires or tubes according to paragraphs (a) to (m) inclusive of this section.

(o) (1) Notwithstanding any other provisions of this section, the maximum

[5] Filed with the Division of the Federal Register as part of the original document.

retail prices for any private brands of Exhibit C passenger-car tires and tubes shall be determined according to whichever of the following subdivisions (i) or (ii) is applicable. The maximum retail prices established by this paragraph shall supersede any higher or different maximum prices which may have been established for such tires or tubes by paragraphs (a) to (n) of this section.

(i) If the Exhibit C filed with the Office of Price Administration on which the particular tires or tubes are listed sets forth consumer list prices, the maximum retail prices shall be the prices set forth on the Exhibit C list, without deducting the 20, 40, or 60% discount prescribed by the Exhibit C, for tires or tubes of the same brand and size.

(ii) If the Exhibit C filed with the Office of Price Administration on which the particular tires or tubes are listed sets forth net wholesale prices, the maximum retail prices shall be determined by taking the maximum retail prices in effect under paragraphs (a) to (m) of this section, for the tires or tubes of the same distributor which are most comparable as to type, quality, and size and adjusting such price in accordance with the price differentials prevailing in the industry on March 1, 1942, for differences in brand, type, quality and size.

(2) It shall be the duty of the seller to determine which of the tires or tubes he is selling appear on the Exhibit C filed with the Office of Price Administration by the distributor or manufacturer thereof, the prices set forth for such tires or tubes on the Exhibit C list, whether such prices are consumer list prices or net wholesale prices, and any other information which is necessary to enable the seller to determine the maximum retail prices for Exhibit C passenger-car tires or tubes under subparagraph (1) of this paragraph. Such information can ordinarily be obtained from the distributor or manufacturer of the tires or tubes involved. All such information can be obtained by any seller by writing to the Office of Price Administration, Washington, D. C., where an accurate Exhibit C for each distributor and manufacturer is on file and available for inspection at all times.

(p) The maximum retail prices for private brands of tires and tubes for special purpose trucks and busses, off-the-road-equipment, industrial and commercial tractors, trailers, industrial equipment, farm implements and motorcycles, shall be calculated according to the method set forth in paragraphs (f), (g), and (h), of this section, using as the basis for calculating, the 6.00—16 or 8.25—20 size tire or tube as specified by those paragraphs. The paragraph to be used shall be the one which specifies the type of tire or tube most nearly comparable to the tire or tube for which a maximum retail price is being calculated.

§ 1315.112 *Appendix C: Maximum retail prices for new passenger-car reclaimed rubber war tires.* The following prices are the maximum prices that may be charged at retail for new rubber tires or tubes at the seller's place of business. The maximum prices set forth herein may not be exceeded for any such sale, even though in a particular case no used tire or tube is traded in. If a used tire or tube is traded in, the trade-in allowance shall be deducted from the maximum price. The actual dollar amount of the Federal excise tax paid on any tire or tube may in each case be added to the maximum price established by Revised Price Schedule No. 63.

(a) Notwithstanding any of the provisions of Appendixes A and B (§§ 1315.110 and 1315.111), the maximum retail prices for new passenger-car reclaimed rubber war tires shall be:

PASSENGER-CAR RECLAIMED RUBBER WAR TIRES

Size	*Maximum price*
7.00—15	$17.80
6.00—16	13.25
6.25/6.50—16	16.65
7.00—16	18.25
5.25/5.50—17	12.20
5.25/5.50—18	11.10
4.75/5.00—19	9.95
4.50/4.75/5.00—20	11.05
4.40/4.50—21	9.90
30 x 3½	8.45

(§ 1315.112 added by Amendment 6, 7 F.R. 9888)

Issued this 13th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2516; Filed, February 15, 1943; 4:41 p. m.]

PART 1340—FUEL

[RPS 88,[1] Amendment 70]

PETROLEUM AND PETROLEUM PRODUCTS

A statement of the considerations involved in the issuance of this amendment is issued simultaneously herewith and has been filed with the Division of the Federal Register.*

In § 1340.159 (c) (3), subdivision (xi) is amended to read as set forth below:

§ 1340.159 *Appendix A: Maximum prices for petroleum and petroleum products.* * * *

(c) *Specific prices.* * * *

(3) *Distillate fuel oils.* * * *

(xi) *Metropolitan Boston, Massachusetts, area.* In the Metropolitan Boston, Massachusetts, area, comprised of the following towns and cities: Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Cohassett, Dedham, Dover, Everett, Hingham, Lexington, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Reading (but not North Reading), Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester, Winthrop and Woburn, maximum prices for kerosene, No. 1 fuel oil and range oil shall be as follows:

	Cents per gallon
F. o. b. terminals in bulk lots for delivery by barge	6.65
F. o. b. terminals in bulk lots for delivery by tank car or motor transport	6.9
At seller's yard for delivery into buyer's tank wagons	7.5
At seller's yard for deliveries in containers in quantities of 10 gallons or less	10
Tank wagon deliveries to resellers in quantities of 25 gallons or over	9.5
Tank wagon deliveries to consumers in quantities of 25 gallons or over	10
Tank wagon deliveries in quantities of less than 25 gallons and truck deliveries in containers in quantities of less than 25 gallons	11.7

* * * * *

§ 1340.158a *Effective dates of amendments.* * * *

(sss) Amendment No. 70 (§ 1340.159 (c) (3) (xi)) to Revised Price Schedule No. 88 shall become effective February 20, 1943, and shall, unless earlier revoked or replaced, expire on April 15, 1943.

(Pub. Law 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2518; Filed, February 15, 1943; 4:42 p. m.]

PART 1340—FUEL

[RPS 88,[1] Amendment 73]

PETROLEUM AND PETROLEUM PRODUCTS

A statement of the considerations involved in the issuance of this amendment is issued simultaneously herewith and has been filed with the Division of the Federal Register.*

In § 1340.159 (c) (3) subdivisions (xiv), (xv), (xvi), (xvii), and (xviii) are added as set forth below:

§ 1340.159 *Appendix A: Maximum prices for petroleum and petroleum products.* * * *

(c) *Specific prices.* * * *

(3) *Distillate fuel oils.* * * *

(xiv) *Bridgeport, Connecticut Area.* In the Bridgeport, Connecticut Area comprising the townships and cities of Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston and Westport, maximum prices for kerosene, No. 1 fuel oil and range oil shall be as follows:

	Cents per gallon
F. o. b. terminals in bulk lots for delivery by tank car or motor transport	7.2
At seller's yard for delivery into buyer's tank wagons	7.5
At seller's yard for deliveries in containers in quantities of 10 galons or less	11.0
Tank wagon deliveries to resellers in quantities of 25 gallons or over	8.9
Tank wagon deliveries to consumers in quantities of 25 gallons or over	9.7
Tank wagon deliveries to consumers in quantities of less than 25 gallons	11.2

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 1107, 1371, 1798, 1799, 1886, 2132, 2304, 2352, 2634, 2945, 3463, 3482, 3524, 3576, 3895, 3963, 4483, 4653, 4854, 4857, 5481, 5867, 5868, 5988, 5983, 6057, 6167, 6471, 6680, 7242, 7838, 8433, 8478, 9120, 9134, 9335, 9425, 9460, 9620, 9621, 9817, 9820, 10684, 11069, 11112, 11075; 8 F.R. 157, 232, 233, 857, 1227, 1200, 1457, 1312, 1318, 1642, 1799.

(xv) *New Haven, Connecticut Area.* In the New Haven, Connecticut Area comprising the townships and cities of Bethany, Branford, East Haven, Hamden, Milford, North Branford, North Haven, Orange, West Haven and Woodbridge, maximum prices for kerosene, No. 1 fuel oil and range oil shall be as follows:

	Cents per gallon
F. o. b. terminals in bulk lots for delivery by tank car or motor transport	7.2
At seller's yard for delivery into buyer's tank wagons	7.5
At seller's yard for deliveries in containers in quantities of 10 gallons or less	11.0
Tank wagon deliveries to resellers in quantities of 25 gallons or over	8.9
Tank wagon deliveries to consumers in quantities of 25 gallons or over	9.7
Tank wagon deliveries to consumers in quantities of less than 25 gallons	11.2

(xvi) *Hartford, Connecticut Area.* In the Hartford, Connecticut Area comprising the townships and cities of Bloomfield, East Hartford, East Windsor, Glastonbury, Hartford, Newington, Wethersfield, Windsor, Windsor Locks, West Hartford and South Windsor, maximum prices for kerosene, No. 1 fuel oil and range oil shall be as follows:

	Cents per gallon
F. o. b. terminals in bulk lots for delivery by tank car or motor transport	7.2
At seller's yard for delivery into buyer's tank wagons	7.5
At seller's yard for deliveries in containers in quantities of 10 gallons or less	10.0
Tank wagon deliveries to resellers in quantities of 25 gallons or over	9.7
Tank wagon deliveries to consumers in quantities of 25 gallons or over	9.7
Tank wagon deliveries to consumers in quantities of less than 25 gallons	11.2

(xvii) *Danbury, Connecticut Area.* In the Danbury, Connecticut Area comprising the following townships and cities in the State of Connecticut: Bethel, Bridgewater, Brookfield, Danbury, Redding, Ridgefield, New Fairfield, New Milford, Newtown and Sherman; and the following townships and cities in the State of New York: Brewster, Patterson and Pawling, maximum prices for kerosene, No. 1 fuel oil and range oil shall be as follows:

	Cents per gallon
At seller's yard for delivery into buyer's tank wagons	7.9
At seller's yard for deliveries in containers in quantities of 10 gallons or less	11.0
Tank wagon deliveries to resellers in quantities of 25 gallons or over	9.7
Tank wagon deliveries to consumers in quantities of 26 gallons or over	10.2
Tank wagon deliveries to consumers in quantities of less than 25 gallons	11.7

(xviii) *New England States.* Until April 15, 1943, at all points in the New England States other than those within the areas defined in subdivisions (xiv), (xv), (xvi) and (xvii) above, the maximum tank wagon prices for kerosene, No. 1 fuel oil and range oil to consumers in quantities of less than 25 gallons shall be 1½ cents per gallon above the maximum tank wagon price for the particular seller at the particular point determined under applicable provisions of this price schedule for deliveries in quantities of 25 gallons or over.

This Amendment No. 73 shall become effective the 15th day of February 1943.

(Pub. Laws 421 and 729, 77th Cong; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2519; Filed, February 15, 1943; 4:41 p. m.]

PART 1340—FUEL

[MPR 137,[1] Amendment 23]

PETROLEUM PRODUCTS SOLD AT RETAIL

A statement of the considerations involved in the issuance of this amendment is issued simultaneously herewith and has been filed with the Division of the Federal Register.*

In § 1340.91 new paragraphs (p), (q), (r) and (s) are added as set forth below:

§ 1340.91 * * *

(p) In the Bridgeport, Connecticut Area, comprising the townships and cities of Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston and Westport, the maximum price for sellers at retail establishments of kerosene, No. 1 fuel oil and range oil shall be 12.2 cents per gallon.

(q) In the New Haven, Connecticut Area, comprising the townships and cities of Bethany, Branford, East Haven, Hamden, Milford, North Branford, North Haven, Orange, West Haven and Woodbridge, the maximum price for sellers at retail establishments of kerosene, No. 1 fuel oil and range oil shall be 12.2 cents per gallon.

(r) In the Hartford, Connecticut Area, comprising the townships and cities of Bloomfield, East Hartford, Glastonbury, Hartford, Newington, Wethersfield, Windsor, Windsor Locks, East Windsor, South Windsor and West Hartford, the maximum price for sellers at retail establishments of kerosene, No. 1 fuel oil and range oil shall be 12.2 cents per gallon.

(s) In the Danbury, Connecticut, Area, comprising the following townships and cities in the State of Connecticut: Bethel, Bridgewater, Brookfield, Danbury, Redding, Ridgefield, New Fairfield, New Milford, Newtown and Sherman; and the following townships and cities in the State of New York: Brewster, Patterson, and Pawling, the maximum price for sellers at retail establishments of kerosene, No. 1 fuel oil and range oil shall be 12.7 cents per gallon.

This Amendment No. 23 shall become effective this 15th day of February 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2517; Filed, February 15, 1943; 4:41 p. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[Temporary MPR 26]

ONION SETS 1942 CROP

In the judgment of the Price Administrator, the prices of onion sets have risen and are threatening to rise further to an extent and in a manner inconsistent with the purposes of the Emergency Price Control Act of 1942, as amended, and are thereby causing undue increases in prices.

The Administrator has considered all pertinent provisions of the Emergency Price Control Act of 1942, as amended, and has complied with all requirements thereof including the provisions of section 3 of this Act, as amended.

The maximum prices established by this Temporary Maximum Price Regulation No. 26 are, in the judgment of the Price Administrator, generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Order 9250.

Therefore, with the concurrence of the Secretary of Agriculture and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order 9250, this Temporary Maximum Price Regulation No. 26 is hereby issued, establishing as the maximum prices on onion sets of the 1942 crop the price or prices prevailing with respect thereto within five days prior to the date of issuance of this temporary regulation.

AUTHORITY: §§ 1439.101 to 1439.109, inclusive, issued under Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871.

§ 1439.101 *Prohibition against sales at higher than maximum prices.* While this regulation is in effect, regardless of any contract, agreement or other obligation, no person to whom this temporary regulation is applicable shall sell, offer for sale or deliver any onion sets at prices higher than the maximum prices specified in this temporary regulation, and no person in the course of trade shall buy, solicit or receive any such onion sets at a price higher than the maximum prices specified in this temporary regulation; and no person shall agree, offer, solicit or attempt to do any of the foregoing. Lower prices may be charged, demanded, paid or offered.

§ 1439.102 *Definitions.* (a) When used in this Temporary Maximum Price Regulation No. 26, the term:

(1) "Person" means an individual, corporation, partnership, association or other organized group of persons or the successor or representative of any of the foregoing, and includes the United

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* Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3165, 3749, 4273, 4653, 4780, 4853, 5363, 5868, 5941, 6057, 6896, 7902, 8353, 8938, 8948, 9335, 10684, 11008, 11112, 11075; 8 F.R. 231, 232, 1226, 1586, 1799.

States or any government or any political subdivision or agency of either thereof.

(2) "Each seller" includes each grower, dealer, wholesaler, wholesale outlet, retailer, retail outlet and every other person selling onion sets of the 1942 crop.

(3) "Dealer" means a person who buys such onion sets and cleans, sizes or bags the same for resale by him.

(4) "Wholesaler" means a person who buys such onion sets and resells to any person other than ultimate users.

(5) "Wholesale outlet" means a department, branch or unit of one concern or a unit of an affiliated group of concerns or organizations which department, branch or unit performs a function equivalent to that of a wholesaler in the selling or distribution of such onion sets and which concern, concerns or organizations also deal in such onion sets at the grower or dealer levels of distribution.

(6) "Retailer" means a person who buys such onion sets and resells to ultimate users.

(7) "Retail outlet" means a department, branch or unit of one concern or a unit of an affiliated group of concerns or organizations which department, branch or unit performs a function equivalent to that of a retailer in the selling or distribution of such onion sets and which concern, concerns or organizations also deal in such onion sets at other levels of distribution.

(8) "Commercial user" means a person who buys such onion sets to plant for a crop of onions which he intends to sell.

(9) "Ultimate user" means a person who buys such onion sets to plant for a crop of onions which he intends for his own use.

(10) "Billing charge" means a charge or entry as a part of the bookkeeping system of debts and credits made between different departments, branches or units of one concern or between different units of an affiliated group of concerns or organizations for services rendered or commodities delivered by one to another.

(11) "Each class of sales or deliveries" means all of the sale or deliveries of such onion sets by each seller during the five days prior to the date of issuance of this temporary regulation to one of the following groups or classes of buyers or recipients: dealers, wholesalers, wholesale outlets, retailers, retail outlets, commercial users and ultimate users.

(12) "Onion sets of the 1942 crop" means a small onion bulb produced in 1942 and sold for use for planting to yield a crop of onions.

§ 1439.104 *Maximum prices for all sellers of onion sets of the 1942 crop.* (a) Each seller's maximum price and billing charge for all sales or deliveries of onion sets of the 1942 crop shall be his highest price or billing charge charged on and for each class of sales or deliveries of each type, variety or size of onion sets during the five days prior to the date of issuance of this temporary regulation.

However, in determining "his highest price or billing charge" the seller shall not commingle f. o. b. selling prices and billing charges with delivered selling prices and billing charges. If for a given class of sales or deliveries during said five day period he had both, then his highest price or billing charge f. o. b. his established place of business shall be his maximum price and billing charge f. o. b. his established place of business hereunder; and his highest price or billing charge delivered to a given point or area (including all territory within which he had a uniform delivered price or billing charge during said base period) shall be his maximum price and billing charge delivered to that point or area hereunder. If under the foregoing provision a seller has no maximum delivered price or billing charge for any particular point or area he may determine the same by adding to his maximum price or billing charge f. o. b. his established place of business (determined as herein provided) the actual delivery cost as to each subsequent transaction; or he may take all or a representative list of prospective deliveries in a designated area and average his actual or estimated actual cost of such deliveries in said area and that figure added to his maximum f. o. b. price and billing charge shall be his uniform maximum delivered price and billing charge for that area. If under the foregoing provisions a seller had no maximum price or billing charge f. o. b. his established place of business, he may determine the same by taking his maximum price and billing charge delivered to a given point or area and deducting therefrom the actual or averaged actual delivered cost from his established place of business to or within that point or area and the figure obtained shall be his maximum price and billing charge f. o. b. his established place of business.

(b) If under the foregoing provision, a seller has no maximum price or billing charge for a given class of sales or deliveries, his maximum price and billing charge for such class of sales and deliveries shall be the maximum price and billing charge of his closest competitor for such class of sales and deliveries.

(c) If under the foregoing provisions a seller has a maximum price and billing charge for a given class of sales and deliveries for one or more, but not for all types, varieties, or sizes of onion sets of the 1942 crop, he shall determine his maximum price and billing charge for those types, varieties or sizes for which he has no such price or billing charge, by taking his maximum price and billing charge for that class of sales and deliveries for the most nearly similar type, variety or size and add thereto or subtract therefrom the discount or premium, as the case may be normal to his own business or, if none, normal to the trade for the type, variety or size in question in relation to said most nearly similar type, variety or size on which he has a maximum price and billing charge; and the resultant figure shall be his maximum price and billing charge for the type, variety or size in question.

(d) If any retailer cannot determine a maximum price under the foregoing provisions, he may establish his maximum price by taking the price in any catalogue of any reputable mail order house for sales to ultimate users of the type, variety or size of onion sets in question prevailing during said five days prior to the date of issuance of this temporary regulation. Said maximum price shall be f. o. b. his established place of business or delivered, dependent upon which basis the price is quoted in said catalogue.

(e) To cover shrinkage, for every two weeks after the effective date of this temporary regulation each seller or prospective seller may add 5 cents per bushel to his maximum price as hereinbefore established.

§ 1439.105 *Evasion.* The provisions of this Temporary Maximum Price Regulation No. 26 shall not be evaded whether by direct or indirect methods in connection with any offer, solicitation, agreement, sale, delivery, purchase, or receipt of any commodity covered by this regulation alone or in conjunction with any other commodity or by way of commission, service, transportation or other charge, or discount, premium or other privilege or by tying-agreement or other trade understanding or otherwise.

§ 1439.106 *Protests and petitions for amendment.* Any person seeking a protest or an amendment of any provisions of this temporary regulation may file a protest or petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1[1] issued by the Office of Price Administration.

§ 1439.107 *Enforcement.* Any persons violating any provisions of this Temporary Maximum Price Regulation No. 26 shall be subject to the criminal penalties, civil enforcement actions, and suits for treble damage provided for by the Emergency Price Control Act of 1942, as amended.

§ 1439.108 *Records.* Every person selling onion sets shall preserve for examination by the Office of Price Administration all his existing records relating to prices which he charged for sales or deliveries of onion sets during the five days prior to the issuance of this temporary regulation; and thereafter prepare and maintain for examination by any person during ordinary business hours a statement showing his then existing maximum prices for onion sets.

§ 1439.109. *Effective period.* This Temporary Maximum Price Regulation No. 26 (§§ 1439.101 to 1439.109, inclusive) shall become effective on February 15, 1943 and shall, unless earlier revoked or replaced, expire on 12 o'clock midnight April 16, 1943.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

Approved:

GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 43–2520; Filed, February 15, 1943; 4:41 p. m.]

[1] 7 F.R. 971, 3663, 6967.

PART 1499—COMMODITIES AND SERVICES

[Order 284 Under § 1499.3 (b) of GMPR]

PENN TOBACCO COMPANY

The Penn Tobacco Company, a corporation, has made application under § 1499.3 (b) of the General Maximum Price Regulation for determination of a maximum price for the Willoughby Taylor DeLuxe Smoking Set (two 1⅝ ounce packages of Willoughby mixture smoking tobacco, a Taylor Arms pipe and a packing container for those items with a cellulose acetate cover). Due consideration has been given to the application and an opinion in support of this order issued simultaneously herewith has been filed with the Division of the Federal Register.* For the reasons set forth in the opinion, under the authorization vested in the Price Administrator by the Emergency Price Control Act of 1942 as amended, and in accordance with § 1499.3 (b) of the General Maximum Price Regulation, *It is hereby ordered,* That:

§ 1499.1720 *Authorization of a maximum price for the Willoughby Taylor DeLuxe Smoking Set for the Penn Tobacco Company.* (a) On and after February 16, 1943, the Penn Tobacco Company, Wilkes-Barre, Pennsylvania, may sell and deliver, and any purchaser may buy and receive from the Penn Tobacco Company, the Willoughby Taylor DeLuxe Smoking Set at a maximum price not in excess of $12.00 per dozen, less 10% trade discount and 2% cash discount for payment within 10 days, plus the amount of any state or local tax applicable to the particular quantity of smoking sets sold and paid or payable by the manufacturer to the proper taxing authorities with respect to the particular quantity of smoking sets in question.

(b) Any wholesaler or jobber may sell and deliver, and any purchaser may buy Willoughby Taylor DeLuxe Smoking Sets from such wholesaler or jobber at maximum price not in excess of $12.00 per dozen, less discounts customarily allowed in March, 1942 by such wholesaler or jobber for sales on combination tobacco packages to purchasers of the same class plus the amount of any state or local tax applicable to the particular quantity of smoking sets involved and paid or payable by the wholesaler or jobber to the proper taxing authorities and to any prior vendor with respect to the particular quantity of smoking sets in question.

(c) Any retailer may sell and deliver and any person may buy and receive Willoughby Taylor DeLuxe Smoking Sets from such retailer at a price no higher than $1.25 per set plus the amount of any state or local tax applicable.

(d) On or before the first delivery of any Willoughby Taylor DeLuxe Smoking Set to any purchaser, the Penn Tobacco Company and every wholesaler and jobber who delivers such sets shall notify the purchaser of the exact maximum price thereof, as set forth in this order by delivering to such purchaser a written notice as follows:

On our new Willoughby Taylor DeLuxe Smoking Tobacco Set the Office of Price Administration has authorized us to establish a maximum list price of $12.00 per dozen. Manufacturers' discounts may not be less than 10% trade discount plus 20% cash discount for payment within 10 days. Wholesalers' and jobbers' discounts may not be less than those customarily allowed in March, 1942 on their sales of other smoking sets or similar combination packages to the same class of purchasers. The amount of any state or local tax applicable to the particular set, if any, may be added to the manufacturer's maximum price. The amount of any state or local tax applicable may be added to the wholesalers' or jobbers' maximum list price.

The Office of Price Administration has also authorized us to establish a maximum retail price of $1.25 per set and the amount of any state or local tax applicable may be added to such maximum retail price.

Wholesalers and jobbers receiving this notice are required to give similar notice to each person to whom they sell and deliver Willoughby Taylor DeLuxe Smoking Sets at or before their first delivery of such sets to the purchaser. The Office of Price Administration requires you to keep this notice for examination.

(e) This Order No. 284 may be revoked or amended by the Price Administrator at any time.

(f) This Order No. 284 (§ 1499.1720) shall become effective February 16, 1943.

(Pub. Laws 421, 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2521; Filed, February 15, 1943; 4:43 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 285 Under § 1499.3 (b) of GMPR]

WALTER S. BUCK, JR.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1721 *Approval of maximum prices for sales of a dehydrated dog food by Walter S. Buck, Jr., as producer.* (a) Walter S. Buck, Jr. of North Wales, Pennsylvania, as producer, may sell and deliver and any person may buy and receive from Walter S. Buck, Jr. a dehydrated dog food (hereinafter called Buckys dehydrated dog food), consisting of 12 ingredients (flaked corn, meat meal, dried skimmed milk, wheat bran, wheat shorts, bread crumbs, alfalfa meal, bone meal, salt, molasses, wheat germ oil and fish meal) packed in five pound packages at a price not exceeding $1.80 per case of 6 five-pound packages, delivered. This maximum price is only authorized for Buckys dehydrated dog food when made according to the formula used by Walter S. Buck, Jr. in connection with his application for this order subject, however, to the provisions of paragraph (h) below.

(b) No increase in the maximum price authorized in the previous paragraph may be made by any seller of Buckys dehydrated dog food, except in a sale at wholesale or retail.

(c) The maximum delivered price which a seller may charge in a sale at wholesale for Buckys dehydrated dog food shall be $2.10 per case of 6 five-pound packages. (A sale at wholesale shall include all sales to retailers and to kennels and pet shops.)

(d) The maximum delivered price which a seller may charge in a sale at retail for Buckys dehydrated dog food shall be $3.00 per case of 6 five-pound packages or 50 cents per five pound package.

(e) The maximum prices authorized by this order shall not be increased by any charges whatsoever, including but not limited to duties, brokerages, commissions, advertising, storage, insurance, carrying and handling charges or charges for the extension of credit.

(f) *Records.* Every person making a purchase or sale of Buckys dehydrated dog food in the course of trade or business, except a seller at retail, shall keep for inspection by the Office of Price Administration, so long as the Emergency Price Control Act of 1942 remains in effect, complete and accurate records of each such purchase and sale including (1) the date thereof, (2) the name and address of the purchaser, (3) the price charged and (4) the amount sold. Sellers at retail are not required to keep records of sales at retail but shall keep all invoices and notices received with the purchase of each shipping unit.

(g) On and after February 16, 1943, and on or before the time of first delivery of Buckys dehydrated dog food to any wholesaler or retailer Walter S. Buck, Jr. or any other seller shall supply the buyer with a written statement, and also include or attach to each shipping unit of such dehydrated dog food a copy of such statement which shall read as follows:

The Office of Price Administration has authorized ceiling prices for this dehydrated dog food as made by Walter S. Buck, Jr. You are authorized to establish your ceiling price as follows:

In a sale at wholesale your ceiling price is $2.10 per case of 6 five-pound packages, delivered.

In a sale at retail your ceiling price is $3.00 per case of 6 five-pound packages or 50 cents per 5 pound package, delivered.

If the first sale made by a wholesaler is a split case sale the wholesaler is required to supply the retailer with a copy of this notice. The Office of Price Administration requires that you keep this notice and all invoices for examination. A copy of this notice is enclosed in every packing unit of the dehydrated dog food authorized for sale by Walter S. Buck, Jr.

(h) (1) Walter S. Buck, Jr. may change the formula used in making Buckys dehydrated dog food as stated in his application for this order and may continue to use the maximum price established by this order: *Provided,* That there is no substantial change in the cost or quality of the products in the new formula.

(2) Walter S. Buck, Jr. shall report such new formula to the Food and Food Products Branch, Office of Price Administration, Washington, D. C. and shall set forth under oath or affirmation the reasons for the change, and justification for

*Copies may be obtained from the Office of Price Administration.

charging the maximum price authorized by this order for the new formula. In no event shall the maximum prices issued by this order be increased as result of such change in formula, but lower prices may be charged, demanded, paid or offered. Such report shall be made prior to or immediately upon such change in formula but not later than two weeks after such changed formula is first used.

(3) The Office of Price Administration may adjust the price of Buckys dehydrated dog food made according to such new formula at any time.

(i) This Order No. 285 may be revoked or amended by the Price Administrator at any time.

(j) This Order No. 285 (§ 1499.1721) shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2522; Filed, February 15, 1943; 4:43 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commisison

[No. 3666]

PARTS 73 AND 75—TRANSPORTATION OF EXPLOSIVES [1]

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 10th day of February, A. D. 1943.

In the matter of regulations for transportation of explosives and other dangerous articles.

It appearing, That pursuant to section 233 of the Transportation of Explosives Act approved March 4, 1921, (41 Stat. 1445), and section 204 (a) (2) of Part II of the Interstate Commerce Act, the Commission has formulated and published certain regulations for transportation of explosives and other dangerous articles;

It further appearing, That in applications received we are asked to amend the aforesaid regulations as set forth in provisions made part hereof;

And it further appearing, That amendments involved in said applications, having been considered and found to be in accord with the best-known practicable means for securing safety in transit:

It is ordered, That the aforesaid regulations for transportation of explosives and other dangerous articles, be, and they are hereby, amended as follows:

Part 2—Commodity list of explosives and other dangerous articles [1]

Amending list, order Aug. 16, 1940, as follows (add):

Article	Classed as	Exemptions and packing (sec.)	Label	Maximum quantity, express
Isoprene	Inf. L.	103, 110	Red	10 gallons.

Part 3—Regulations Applying to Shippers

Superseding and amending par. (b) (3) (a), sec. 60, order Oct. 28, 1942, to read as follows (packing black powder and low explosives):

(b) (3) (a) Because of the present emergency and until further order of the Commission, black powder and low explosives may be shipped in fiber kegs, spec. 13A. Net weight not more than 25 pounds.

Superseding and amending par. (b) (4), sec. 61, order Aug. 16, 1940, to read as follows (packing high explosives):

(b) (4) Dry, fine wood pulp or sawdust, at least ¼ inch in depth, must be spread over the bottom of boxes, lined in accordance with sec. 61 (b) (3), before the cartridges or bags of gelatin dynamite, or other explosives containing more than 30 percent liquid ingredients, are packed therein.

Amending sec. 65, order Aug. 16, 1940, as follows (packing smokeless powder) (add):

(b) (6) Spec. 21A. *Fiber drums.* Use of this container will be permitted because of the present emergency and until further order of the Commission.

(f) (8) Spec. 21A. *Fiber drums.* Drums having wooden heads must be provided with a strong sift-proof liner. Use of this container will be permitted because of the present emergency and until further order of the Commission.

Amending sec. 104, order Aug. 16, 1940, as follows (packing alcohol) (add):

(d) Spec. 12B.—Because of the present emergency and until further order of the Commission, inside glass containers not over 1.21 gallons capacity each are authorized when only one inside container is packed in each outside container.

(e) Because of the present emergency and until further order of the Commission, existing tank cars complying with spec. 103, 103W, ARA-III, AAR 203, or AAR 203W, previously used for the transportation of wine, are authorized when stenciled "Alcohol Only" and equipped with safety valves of the type required on spec. 103 tank cars.

Amending sec. 110, order Aug. 16, 1940, as follows (packing inflammable liquids) (add):

(b) (8) Spec. 21B. *Fiber drums.* Use of this container will be permitted because of the present emergency and until further order of the Commission.

(Note 3, par. (c) (8)) Because of the present emergency and until further order of the Commission, spec. ICC-104 tank cars, equipped with safety valves set to open at pressure of 35 pounds (with a tolerance of plus or minus 3 pounds) and which are vapor tight at 28 pounds per square inch, gage pressure, are authorized provided they are stenciled as required above.

Amending sec. 113, order Aug. 16, 1940, as follows (packing paint, etc.) (add):

(g) Because of the present emergency and until further order of the Commission, paint (other than aluminum, bronze and gold paint), enamel, varnish, shellac and lacquer, with flash point above 20° F. may be shipped in fiber drums, spec. 21B, except that drum must be able to withstand one drop from a height of 2 feet on chime at bottom and 1 drop from a height of 2 feet flat on top, in lieu of the 4 foot drop test prescribed by par. 6 (a) of spec. 21B.

Amending par. (f), sec. 204, order Aug. 16, 1940, as follows (packing sodium hydrosulfite) (add):

NOTE: Because of the present emergency and until further order of the Commission, the use of inside metal drums will not be required but in lieu thereof the drum must be lined or otherwise treated so as to prevent the entrance of moisture in quantities sufficient to create a hazardous condition in transportation. Maximum loaded capacity 110 pounds net.

Amending sec. 207, order Aug. 16, 1940, as follows (packing sulfide of sodium, etc.) (add):

(b) (7) Spec. 11A. *Wooden barrels or kegs.* Net weight not over 350 pounds. Head battens required. Barrel or keg must be lined with heavy waxed duplex (asphalt laminated) Kraft paper having 90-pound basis weight and 90-pound Mullen test. Use of this container will be permitted because of the present emergency and until further order of the Commission.

Superseding and amending addendum to Note 3, par. (q) (1), sec. 303, order Feb. 26, 1942, to read as follows (maximum permitted filling density in tank cars transporting liquefied petroleum gas of specific gravity shown, taken at 60 degrees, F.):

ADDENDUM TO NOTE 3: Because of the present emergency and until further order of the Commission, and only for shipments made during the months of November to March, inclusive, the following filling densities may be used in lieu of those specified in the Table, Note 3, as amended:

Specific gravity	Filling density	Specific gravity	Filling density
0.500	47.40	0.520	49.60
.501	47.51	.521	49.70
.502	47.62	.522	49.81
.503	47.73	.523	49.92
.504	47.84	.524	50.03
.505	47.95	.525	50.14
.506	48.06	.526	50.25
.507	48.17	.527	50.36
.508	48.28	.528	50.47
.509	48.39	.529	50.58
.510	48.51	.530	50.69
.511	48.61	.531	50.79
.512	48.72	.532	50.90
.513	48.83	.533	51.01
.514	48.94	.534	51.12
.515	49.05	.535	51.23
.516	49.16	.536	51.34
.517	49.27	.537	51.45
.518	49.38	.538	51.56
.519	49.49	.539	51.67

[1] Parts 2 and 3 in this order appear in CFR as Parts 73 and 75.

Specific gravity	Filling density	Specific gravity	Filling density
0.540	51.78	0.588	56.85
.541	51.88	.589	56.95
.542	51.99	.590	57.06
.543	52.09	.591	57.15
.544	52.20	.592	57.25
.545	52.31	.593	57.34
.546	52.41	.594	57.44
.547	52.52	.595	57.53
.548	52.62	.596	57.63
.549	52.73	.597	57.72
.550	52.84	.598	57.82
.551	52.94	.599	57.91
.552	53.05	.600	58.01
.553	53.16	.601	58.10
.554	53.26	.602	58.20
.555	53.37	.603	58.29
.556	53.48	.604	58.39
.557	53.58	.605	58.49
.558	53.69	.606	58.58
.559	53.80	.607	58.68
.560	53.91	.608	58.77
.561	54.01	.609	58.87
.562	54.12	.610	58.97
.563	54.22	.611	59.06
.564	54.33	.612	59.16
.565	54.43	.613	59.26
.566	54.54	.614	59.35
.567	54.64	.615	59.45
.568	54.75	.616	59.55
.569	54.85	.617	59.64
.570	54.96	.618	59.74
.571	55.06	.619	59.84
.572	55.17	.620	59.94
.573	55.27	.621	60.03
.574	55.38	.622	60.13
.575	55.48	.623	60.23
.576	55.59	.624	60.32
.577	55.69	.625	60.42
.578	55.80	.626	60.52
.579	55.90	.627	60.61
.580	56.01	.628	60.71
.581	56.11	.629	60.81
.582	56.22	.630	60.91
.583	56.32	.631	61.00
.584	56.43	.632	61.10
.585	56.53	.633	61.19
.586	56.64	.634	61.29
.587	56.74	.635	61.39

Amending sec. 346, order Aug. 16, 1940, as follows (packing methyl bromide) (add):

(h) Spec. 5A. *Metal drums of bilge type, made of 13 gage material, having a capacity not to exceed 33 gallons.* Use of this container will be permitted because of the present emergency and until further order of the Commission.

Superseding and amending Note, par. (g), sec. 361, orders Aug. 16, 1940, and July 14, 1942, to read as follows (packing poisonous solids, n. o. s.):

NOTE: All butt seams of all boxes must be covered with Kraft tape not less than 3 inches in width and having strength, Mullen or Cady test, of not less than 60 pounds before gumming, extending over the edges and at least 2 inches down the sides of the box. The use of other tapes of equal or superior strength is authorized.

Tape not required on manufacturer's joint that is both glued and stitched.

(Added Note, order July 14, 1942.) Because of the present emergency and until further order of the Commission, tape 2½ inches may be used.

(Test note continued in effect.)

Appendix—Shipping Container Specifications

Amending par. 2, specification 2N, order Aug. 16, 1940, as follows (add):

NOTE: Because of the present emergency and until further order of the Commission, the minimum thickness of metal in heads may be 1XL–107-pound tin plate for cans of not over 4$^{5}/_{16}$ inches diameter and 1XL–135-pound tin plate for cans of not over 6$^{11}/_{16}$ inches diameter, provided side seams are soldered and heads are attached to body by full double seams internally soldered.

Superseding and amending par. 32, specification 12B, order Dec. 12, 1942, to read as follows:

32. *Special box—Authorized only for railway fusees.* Must comply with this specification except as follows: Must be 1-piece type of double-faced corrugated fiberboard at least 400 pound test or solid fiberboard of same strength at least 0.100 inch thick; lining and pads not required; authorized gross weight 75 pounds. For fusees equipped with spikes, protection as required in section 64 (c) (12) (c) must be provided.

Amending order Aug. 16, 1940, as follows (add):

SPECIFICATION 21B—FIBER DRUMS

GENERAL

Use of this container authorized because of the present emergency and until further order of the Commission.

1. *Compliance.* Required in all details.

2. *Maximum rated capacity.* Five gallons. Actual capacity shall be not less than rated capacity plus 2 percent, nor greater than rated capacity plus 2 percent plus one quart.

CONSTRUCTION

3. *Parts and dimensions (minimum).* As follows:

Maximum rated capacity (gallons)	Side wall	Wooden heads [1]	Fiber heads [2]		Metal heads
	Calculated [3] strength [4]	Thickness (inch)	Thickness (inch)	Strength [4]	Minimum thickness in the black (gage, U. S. standard)
5	850	$^{13}/_{16}$	0.170	800	24

[1] Joints in heads must be Linderman joints, glued.
[2] When made of 2 or more discs, the discs must be fastened together with adhesive.
[3] Number of laminations times strength of sheet. For walls made with liner, include liner in calculations.
[4] Mullen or Cady test.

4. *Sidewalls.* To be solid or consist of outer shell with liner, each piece to be made of a continuous fiber sheet, convolutely or spirally wound, at least 0.01 inch thick, the plies being secured together by adhesive.

5. (a) The interior of the drum must be lined or so treated as to prevent penetration by the material with which the drum is filled for shipping.

(b) The exterior surface of the drum must be so coated or treated as to withstand normal weathering.

TESTS

6. *Type tests.* Samples taken at random, filled with (1) the heaviest material which is to be shipped and (2) the lightest material which is to be shipped, closed as for use, must withstand tests without leakage as follows:

(a) Drum must be able to withstand a drop from height of 4 feet on a solid concrete floor, so as to strike diagonally on its (1) top chime, (2) drum closure, (3) end, or any other weak point. Drums with wooden heads to be dropped with grain of wood in cover parallel to concrete surface. No single drum shall be expected to withstand more than one drop.

(b) Drums tested as in subparagraph (a) must stand for a period of 24 hours on each end without leakage (1) on end on which it was dropped and (2) on opposite end.

(c) Compression test by applying weight or pressure not less than 1,000 pounds on the top of drum.

(d) The tests described above must be made by the manufacturer or the shipper on samples taken at random of each type and size of container at start of production or of usage and must be repeated every four months or less during production or usage; results of such tests must be retained until subsequent tests are made.

REGISTRATION OF DRUM SPECIFICATION

7. Specification for each type of drum manufactured (under this specification), together with a detailed report of the tests, shall be filed with the Bureau of Explosives. Changes in construction (drum and closure) differing from specification thus filed must be approved by the Bureau of Explosives before authorized for use.

MARKING

8. *On each container.* As follows:

(a) ICC–21B. This mark shall be understood to certify that the container complies with all specification requirements.

(b) Name or symbol (letters) of maker; this must be registered with the Bureau of Explosives and located just above, below, or following the mark specified in (a).

(Sec. 233, 41 Stat. 1445; sec. 204 (a) (2), 49 Stat. 546; 18 U.S.C. 383, 49 U.S.C. 304)

It is further ordered, That this order amending the aforesaid regulations shall be effective on and after February 10, 1943, and shall remain in full force and effect and be observed until further order of the Commission;

And it is further ordered, That copies of this order be served upon all the parties of record herein and that notice be given to the public by posting in the office of the Secretary of the Commission at Washington, D. C.

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 43-2473; Filed, February 15, 1943; 11:21 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A–1595]

CARROLLTOWN COAL CO.

NOTICE OF HEARING, ETC.

In the matter of the petition of Carrolltown Coal Company, a corporation, for approval of its agreement with Frank B. Wood, an individual trading and doing business as F. B. Wood Coal Mining Company to purchase the entire production of the Foxburg No. 1 Mine, Mine Index No. 1685, and other coal; for a change in shipping point, and for permission to mix coals of Mine Index Nos. 582 and 1685.

Memorandum opinion and order denying application for modification, continuing temporary relief, and notice of and order for rehearing.

An original petition, pursuant to section 4, Part II (d) of the Bituminous Coal Act of 1937, was duly filed with the Bituminous Coal Division, requesting the

approval of an agreement attached thereto and requesting temporary and permanent relief to load and mix the coals produced by Carrolltown Coal Company, at the Victor 9-A Mine, Mine Index No. 582 with the coals produced by Frank B. Wood (F. B. Wood Coal Mining Company) at the Foxburg No. 1 Mine, Mine Index No. 1685.

A petition of intervention was filed in the above-entitled matter by District Board No. 1, the district in which the mines involved herein are located, requesting, among other things, that a temporary order be entered approving the above-referred to agreement.

An order granting temporary relief and conditionally providing for final relief was issued in the above-entitled matter on December 15, 1942, granting permission to load and mix the coals produced at said mines, changing the shipping points and freight origin group numbers for such coals, and providing that the price which shall apply to such mixture shall be that which is listed for the coal in the mixture which has the highest price classification.

An application for modification of such temporary and conditionally final relief was filed in the above-entitled matter by Bituminous Coal Consumers' Counsel, requesting that said order entered herein on December 15, 1942, be modified so as to provide as follows:

(a) When such mixture is sold the invoice shall properly identify the coal. This requirement is to be effective both as to temporary and as to final relief.

(b) The temporary relief granted by said Order (as modified by requested items "----(a)" above) shall remain in force and effect for a period of 60 days. Prior to the expiration of said 60-day period, the original petitioner or District Board No. 1 shall submit to the Director and to the Consumers' Counsel information regarding the percentages of coal from the component mines going into the mixture sold by petitioner under the terms of said temporary relief; factual information as to the physical and chemical characteristics, such as analytical data, of the mixture sold by the petitioner, including similar data as to the various coals comprising said mixture; and any other information which would further enable the Director to determine the classification and minimum mine price which should finally apply to said mixture. Upon submission of such data, the temporary relief shall remain in effect pending an order finally determining the applicable classification and minimum mine price for said mixture. If such data are not submitted as aforesaid, the said temporary relief shall terminate; and final relief shall become effective, to the effect that the price that shall apply to such mixture shall be the price which is listed for the coal in the mixture which has the "E" price classification (the lowest classification now applicable to a component coal).

Upon consideration of the foregoing requests, it appears that said application for modification should be denied at this time, subject, however, to a renewal thereof at the conclusion of the hearing to be held in this matter. It also appears, that the temporary relief heretofore granted by the order issued herein on December 15, 1942, should not become final, but should continue in full force and effect, pending further order of the Division, and that this matter should be scheduled for hearing.

Therefore, it is ordered, That the application for modification, heretofore filed herein by Bituminous Coal Consumers' Counsel be, and the same hereby is, denied, subject, however to a renewal thereof at the conclusion of the hearing to be held in this matter.

It is further ordered, That the temporary relief granted in said order issued in the above-entitled matter on December 15, 1942, be, and the same hereby is, continued in full force and effect pending further order of the Division.

It is further ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on March 16, 1943, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, Washington, D. C. On such day the Chief of the Records Section will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, take evidence, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in this proceeding and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 12, 1943.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition filed in the above-entitled matter by Carrolltown Coal Company, and the application for modification filed by Bituminous Coal Consumers' Counsel, which are more fully hereinabove described.

Dated: February 13, 1943.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 43-2536; Filed, February 16, 1943; 10:46 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

PENS AND PENCILS MANUFACTURING INDUSTRY

NOTICE OF ORAL ARGUMENT

Notice of oral argument before the Administrator and opportunity to submit written briefs in the matter of the minimum wage recommendation of Industry Committee No. 52 for the Pens and Pencils Manufacturing Industry.

Whereas, a hearing was held on January 12, 1943, before Major Robert N. Campbell, as presiding officer, at which all persons interested in the report and recommendation of Industry Committee No. 52 for the fixing of a minimum wage rate in the Pens and Pencils Manufacturing Industry were given an opportunity to be heard and to offer evidence bearing thereon; and

Whereas, the complete record of said hearing has been transmitted to the Administrator, Now, therefore, notice is hereby given:

That the Administrator will receive written briefs (not fewer than twelve copies) on on before March 5, 1943, at the Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York, New York, from any person who entered an appearance at said hearing, and will hear oral argument upon the complete record of said hearing on March 12, 1943, at 10:00 a. m., in Room 3229, United States Department of Labor Building, Washington, D. C., by any person who entered an appearance at said hearing, provided that on or before March 5, 1943, such person notifies the Wage and Hour Division of his intension to offer oral argument and of the amount of time he will require to make his presentation.

Signed at New York, New York, this 15th day of February 1943.

L. METCALFE WALLING,
Administrator.

[F. R. Doc. 43-2530; Filed, February 16, 1943; 10:07 a. m.]

[Administrative Order 172]

GLOVE AND KNITTED WEAR INDUSTRIES

AUTHORIZATION TO MAKE FINDINGS OF FACT, ETC., IN LEARNER EMPLOYMENT REGULATIONS

An order authorizing Merle D. Vincent to make findings of fact and recommendations in the matter of regulations governing the employment of learners in the Gloves and Mittens Industry and in the Knitted Wear Industry from hearings held before Alex G. Nordholm.

Due cause therefor appearing, *it is hereby ordered,* That the records of the hearing held on November 14, 1941, before Alex G. Nordholm, to determine what, if any, modifications of Part 522, §§ 522.060 to 522.071, (Regulations Applicable to the Employment of Learners in the Knitted Wear Industry) are warranted; and of the hearing held on April 28, 1942, before Alex G. Nordholm, to determine what, if any, changes should be

made in the Findings and Determination, dated February 8, 1940, with respect to the employment of learners in the Glove Industry, be filed with Merle D. Vincent, hereby designated as my authorized representative to examine such records and to make findings of fact and recommendations thereon.

Signed at New York, New York, this 15th day of February 1943.

L. METCALFE WALLING,
Administrator.

[F. R. Doc. 43-2531; Filed, February 16, 1943; 10:07 a. m.]

NATIONAL HOUSING AGENCY.

Federal Public Housing Authority.

DELEGATION OF CONTRACTING POWERS IN THE DEVELOPMENT OF WAR HOUSING PROJECTS

FEBRUARY 15, 1943.

The following powers and duties, to be exercised in connection with the development of projects undertaken pursuant to the provisions of Public Nos. 671, 781, and 849, 76th Congress, and Public Nos. 9, 73, and 353, 77th Congress, as amended, are hereby delegated by the Commissioner:

1. To regional directors and assistant regional directors:

a. To act as contracting officer with respect to all matters pertaining to the development of projects, except that until further notice the acceptance of options to purchase land or the execution of leases for sites shall be referred to the Central Office for acceptance or execution.

2. To regional directors and assistant regional directors for development:

a. To select or approve sites.

b. To grant revocable licenses, permits, and easements, and to execute appropriate instruments therefor, to facilitate the provision of adequate utility services.

c. To dedicate, and to execute appropriate deeds of conveyance or other instruments therefor, land for streets, alleys, walks, or other means of egress and ingress.

d. To effectuate, wherever possible, the annexation of project property by political subdivisions if necessary to facilitate the extension of adequate public facilities or services, including utilities, to such property.

3. To regional construction advisers:

a. To approve change orders involving sums up to and including $2,500.

4. To project managers:

a. To approve changes and lump sum subcontracts involving sums up to and including $500.

Persons exercising the above powers and duties shall do so in accordance with established FPHA policies and procedures, applicable laws and regulations, and within approved budgets; and shall execute documents in their own name, for the Commissioner.

[SEAL] HERBERT EMMERICH,
Commissioner.

[F. R. Doc. 43-2515; Filed, February 15, 1943; 4:31 p. m.]

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 586]

PATENT OF HANNS KLEMM

Re: Patent of Hanns Klemm, No. 2,283,740.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Hanns Klemm is a citizen of Germany residing in Boblingen, Germany, and therefore is a national of a foreign country (Germany);

2. Finding that the patent identified as follows:

Number	Issue date	Inventor	Record owner	Title
2,283,740	5/19/42	H. Klemm	Davis & Co. Inc.	Adhesive composition.

is owned by the aforesaid Hanns Klemm;

3. Finding, therefore that the property described as follows:

All right, title and interest, including all accrued royalties and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof, in and to the aforesaid patent,

is property in which a national of a foreign country (Germany) has an interest;

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on December 29, 1942.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43-2542; Filed, February 16, 1943; 11:19 a. m.]

[Vesting Order 587]

PATENT AND PATENT INTEREST OF LEO AND ANNA UBBELOHDE

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Leo Ubbelohde and Mrs. Anna Ubbelohde (nee Baehr), whose last known addresses were represented to the undersigned as being Berlin-Charlottenburg, Germany, are nationals of a foreign country (Germany);

2. Finding that Leo Ubbelohde is the inventor and record owner of the patent referred to in paragraph 3 hereof;

3. Finding, therefore, that the property described as follows:

All right, title and interest, including all accrued royalties and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof, in and to Patent No. 2,048,305 issued by the United States Patent Office on July 21, 1936 under the title "Viscosimeter";

is property of a national of a foreign country (Germany);

4. Finding that the property described as follows:

Interest of the aforesaid Leo Ubbelohde and Mrs. Anna Ubbelohde in and to that certain license agreement entered into between Leo Ubbelohde and the Fish-Schurman Corporation of New York City, the interest of Leo Ubbelohde in which agreement was assigned to said Mrs. Anna Ubbelohde and pursuant to which agreement the Fish-Schurman Corporation acquired the sole and exclusive general license to manufacture and sell in the United States of America viscosimeters covered by the aforesaid patent and any additional United States patents relating to viscosimeters which Leo Ubbelohde might in the future acquire, together with all income, profits, royalties and other property heretofore accrued or which may hereafter accrue to or in favor of said Leo Ubbelohde and Mrs. Anna Ubbelohde, and each of them, by virtue of such agreement;

is property payable or held with respect to a patent or right related thereto in which an interest is held by, and such property is itself an interest held therein by, nationals of a foreign country (Germany);

5. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

6. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraphs 3 and 4, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest

of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order, may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on December 29, 1942.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2543; Filed February 16, 1943; 11:18 a. m.]

[Vesting Order 588]

PATENTS OF EDMUND ALTENKIRCH AND SIEMENS-SCHUCKERTWERKE A. G.

Re: Patents recorded in the names of Edmund Altenkirch and Siemens-Schuckertwerke A. G.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Edmund Altenkirch is a resident of Germany and therefore is a national of a foreign country (Germany);

2. Finding that Siemens-Schuckertwerke A. G. is a corporation organized under the laws of, and having a principal place of business in, Germany and therefore is a national of a foreign country (Germany);

3. Finding that the aforesaid Edmund Altenkirch is the record owner of the patents referred to in subparagraph 5 hereof;

4. Finding that the aforesaid Siemens-Schuckertwerke A. G. is the record owner of the patent referred to in subparagraph 6 hereof;

5. Finding, therefore, that the property described as follows:

All right, title and interest, including all accrued royalties and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof, in and to the patents registered in the United States Patent Office under the numbers and on the dates set forth in Exhibit A attached hereto and made a part hereof,

is property in which a national of a foreign country (Germany) has an interest;

6. Finding, therefore, that the property described as follows:

All right, title and interest, including all accrued royalties and all damages and profits recoverable at law or in equity from any person, firm, corporation or government for past infringement thereof, in and to Patent Re. No. 20,933 issued by the United States Patent Office on November 29, 1938, under the title "Apparatus and Process for Conditioning Air or the Like",

is property in which a national of a foreign country (Germany) has an interest;

7. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

8. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraphs 5 and 6, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on December 29, 1942.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

United States letters patent which stand of record in the United States Patent Office in the names of Edmund Altenkirch, Germany, the inventor.

Patent No.	Date of issue	Title
2,138,684	11/29/38	Drying and cooling apparatus.
2,138,685	11/29/38	Refrigerating apparatus.
2,138,686	11/29/38	Intermittent absorption refrigerating apparatus.
2,138,687	11/29/38	Water accumulator.
2,138,688	11/29/38	Method and apparatus for the production of gold.
2,138,689	11/29/38	Method for gaining water out of the atmosphere.
2,138,690	11/29/38	Method for the dehumidification of air.
2,138,691	11/29/38	Method and apparatus for conditioning air.
2,185,760	1/2/40	Drying method and apparatus.
2,233,189	2/25/41	Separating and cooling apparatus.
2,281,815	5/5/42	Air conditioning.

[F. R. Doc. 43–2544; Filed, February 16, 1943; 11:18 a. m.]

[Vesting Order 593]

REAL PROPERTY OF TSUKUSA AND TOMOE KIYONO

Re: Certain real property in Mobile, Alabama, and a bank account, owned by Tsukusa and Tomoe Kiyono.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Tsukusa Kiyono (also known as T. Kiyono) and Tomoe Kiyono, his wife, whose last known addresses were represented to the undersigned as being Tokyo, Japan, are citizens of Japan and are nationals of a designated enemy country (Japan);

2. Finding that the property described as follows:

a. All right, title, interest and estate, both legal and equitable, of said Tsukusa Kiyono and Tomoe Kiyono, and each of them, in and to that certain real property, together with all fixtures, improvements and appurtenances thereto, situated at 32 Houston Street, Mobile, Alabama, and particularly described as follows:

Lot 18 of Dauphin Place according to Plat recorded in Deed Book 102, N. S., page 27 in the Probate Court of Mobile County, Alabama;

b. All right, title, interest and claim of any name or nature whatsoever of said Tsukusa Kiyono and Tomoe Kiyono, and each of them, in and to all indebtedness, contingent or otherwise and whether or not matured, owing to them by the Merchants National Bank of Mobile, Alabama, including but not limited to all security rights in and to any and all collateral for any or all of such indebtedness and the right to sue for and collect such indebtedness, including particularly, but not limited to, the account in said Merchants National Bank of Mobile carried in the names of Mr. and Mrs. T. Kiyono, Special;

is property within the United States owned or controlled by nationals of a designated enemy country (Japan);

3. Determining that the property described in subparagraph 2–b hereof is necessary for the maintenance or safeguarding of other property (namely that hereinbefore described in subparagraph 2–a) belonging to the same nationals of the same designated enemy country and subject to vesting (and in fact vested by this order) pursuant to Section 2 of said Executive Order;

4. Determining that to the extent that such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of the aforesaid designated enemy country (Japan);

5. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

6. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be

paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on December 30, 1942.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2545; Filed, February 16, 1943; 11:20 a. m.]

[Vesting Order 604]

MUTUAL SUPPLY COMPANY, INC.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Y. Kanazawa, whose last known address was represented to the undersigned as being Kobe, Japan, and Kiyoski Togasaki, whose last known address was represented to the undersigned as being Tokyo, Japan, are nationals of a designated enemy country (Japan);

2. Finding that 447 shares of $20 par value common stock of Mutual Supply Company, Inc., a California corporation, San Francisco, California, are owned by and registered in the names of the aforesaid individuals, as follows:

Names:	*Number of shares*
Y. Kanazawa	167
Kiyoski Togasaki	280
Total	447

3. Finding that said corporation is a business enterprise within the United States and that said 447 shares of stock constitute a substantial part (namely, 14.3%) of all the outstanding capital stock of said business enterprise and represent an interest therein;

4. Determining, therefore, that said business enterprise is a national of a foreign country (Japan);

5. Determining that to the extent that the nationals referred to in subparagraph 1 hereof are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of the aforesaid designated enemy country (Japan);

6. Having determined, and certified to the Secretary of the Treasury, that it is necessary in the national interest to liquidate such business enterprise;

7. Having made all other determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

8. Deeming it necessary in the national interest;

hereby (i) vests in the Alien Property Custodian the shares of stock described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States, and (ii) undertakes the direction, management, supervision and control of such business enterprise to the extent deemed necessary or advisable from time to time by the undersigned.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof or to indicate that compensation will not be paid in lieu thereof, or to vary the extent of such direction, management, supervision or control or to terminate the same, if and when it should be determined that any of such action should be taken.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 6, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2546; Filed, February 16, 1943; 11:16 a. m.]

[Vesting Order 716]

W. & F. PRODUCE COMPANY

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Kakuo Tanaka is a subject of Japan and is interned in the United States, and therefore is a national of a designated enemy country (Japan);

2. Finding that W. & F. Produce Company, a sole proprietorship, Los Angeles, California is a business enterprise within the United States;

3. Finding that said W. & F. Produce Company is owned and controlled by the aforesaid Kakuo Tanaka and therefore is a national of a designated enemy country (Japan);

4. Finding therefore that the property described as follows:

All property of any nature whatsoever situated in the United States and owned or controlled by, payable or deliverable to, or held on behalf of or on account of or owing to said W. & F. Produce Company,

is property of a business enterprise within the United States which is a national of a designated enemy country (Japan);

5. Determining that to the extent that such nationals are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of the aforesaid designated enemy country (Japan);

6. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

7. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 4 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof shall be held in a special account pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 18, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2548; Filed, February 16, 1943; 11:20 a. m.]

[Vesting Order 723]

PATENT INTEREST OF HERBERT BRÜNE

Re: Interest of Herbert Brüne in a certain contract relating to a patent.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Herbert Brüne is a resident of Dresden, Germany, and is a national of a foreign country (Germany);

2. Finding that said Herbert Brüne has an interest in the contract referred to in subparagraph 3 hereof.

3. Finding, therefore, that the property described as follows:

The interest of said Herbert Brüne in, to and under that certain contract dated March 17, 1941, by and between him and Carl O. Goettsch, which contract relates to United

States Patent Number 2,228,048, and all accrued royalties, and other moneys payable or held with respect to said interest, together with all damages for the breach of said contract and the right to sue therefor,

is property payable or held with respect to a patent or right related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Germany);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinabove described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2552; Filed, February 16, 1943; 11:17 a. m.]

[Vesting Order 724]

PATENT INTEREST OF COMPAGNIE DURA

Re: Interest of Compagnie Dura in a certain contract relating to a patent.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Compagnie Dura is a French company having a principal place of business at Courbevoie (Seine) France, and is a national of a foreign country (France);

2. Finding that said Compagnie Dura has an interest in the contract referred to in subparagraph 3 hereof;

3. Finding, therefore, that the property described as follows:

The interest of said Compagnie Dura in, to and under a certain contract dated May 4, 1939 by and between it and Detroit Harvester Company, a Michigan corporation, relating to window regulators and particularly, but not limited to, a double-arm regulator in accordance with an invention of one Robert Raphael, as disclosed in the specification in U. S. Patent No. 2,281,383 issued April 28, 1942, including all accrued royalties and other monies payable or held with respect to said interest, and all damages for breach of said contract, together with the right to sue therefor,

is property payable or held with respect to a patent or right related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (France);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2553; Filed, February 16, 1943; 11:17 a. m.]

[Vesting Order 726]

PATENT INTEREST OF HELLMUTH FISCHER

Re: Interest of Hellmuth Fischer in a certain contract relating to patents.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Hellmuth Fischer is a resident of Ilmenau, Thuringia, Germany, and is a national of a foreign country (Germany);

2. Finding that said Hellmuth Fischer has an interest in the contract referred to in subparagraph 3 hereof;

3. Finding, therefore, that the property described as follows:

The interest of said Hellmuth Fischer, his heirs, executors, administrators and assigns, in, to and under an agreement dated January 1, 1938, between him and Corning Glass Works of Corning, New York, a New York corporation, which agreement was signed by said Hellmuth Fischer on August 15, 1938 and by Corning Glass Works on September 6, 1938 (pursuant to which agreement said Corning Glass Works acquired an exclusive license in the field of luminescent glasses and articles made therefrom and in methods and ingredients for the manufacture and production thereof when used in vapor discharge lamps and in glasses under Patent Nos. 2,049,765, 2,097,275, 2,099,602, and 2,255,109, and in which Corning Glass Works agreed to pay certain specified royalties to said Hellmuth Fischer), including all accrued royalties and other monies payable or held with respect to said interest and all damages for breach of said agreement together with the right to sue therefor,

in property payable or held with respect to patents or rights related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Germany);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2554; Filed, February 16, 1943; 11:17 a. m.]

[Vesting Order 727]

PATENT INTEREST OF DR. ING. FRIEDRICH GAITZSCH

Re: Interest of Dr. Ing. Friedrich Gaitzsch in a certain agreement relating to patents.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Dr. Ing. Friedrich Gaitzsch is a resident of Chemnitz, Germany, and is a national of a foreign country (Germany);

2. Finding that said Dr. Ing. Friedrich Gaitzsch has an interest in the agreement referred to in subparagraph 3 hereof;

3. Finding, therefore, that the property described as follows:

The interest of said Dr. Ing. Friedrich Gaitzsch in, to and under that certain agreement by and between him and Carl O. Goettsch, Cincinnati, Ohio, entered into on or about June 15, 1939, and relating to United States Patent Numbers 2,237,286, and 2,209,558, including all accrued royalties and other moneys payable or held with respect to said interest and all damages for the breach of said agreement, together with the right to sue therefor,

is property payable or held with respect to patents or rights related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Germany);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2555; Filed, February 16, 1943; 11:16 a. m.]

[Vesting Order 728]

PATENT INTEREST OF WILHELM JUFFA

Re: Interest of Wilhelm Juffa in a certain agreement relating to a patent.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Wilhelm Juffa is a resident of Ilmenau, Thuringia, Germany, and is a national of a foreign country (Germany);

2. Finding that said Wilhelm Juffa has an interest in the agreement referred to in subparagraph 3 hereof;

3. Finding, therefore, that the property described as follows:

The interest of said Wilhelm Juffa, his heirs, executors, administrators and assigns, in, to and under an agreement dated May 22, 1939, between him and Corning Glass Works of Corning, New York, a New York corporation, and executed by him on May 22, 1939, and by Corning Glass Works on May 31, 1939 (pursuant to which agreement said Corning Glass Works acquired for a period of five years an exclusive license for the United States and a non-exclusive license for the Dominion of Canada to manufacture, use and sell reducing pieces embodying the inventions disclosed in Patent No. 2,052,713 and in which said Corning Glass Works agreed to pay to said Wilhelm Juffa certain specified royalties) including all accrued royalties and other monies payable or held with respect to said interest and all damages for breach of said agreement, together with the right to sue therefor,

is property payable or held with respect to a patent or rights related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Germany);

4. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

5. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 3, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2556; Filed, February 16, 1943; 11:16 a. m.]

[Vesting Order 732]

SOCIETE FRANCAISE DES CHARBONNAGES DU TONKIN

Re: Asphalt pitch owned by Societe Francaise des Charbonnages du Tonkin.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Societe Francaise des Charbonnages du Tonkin is an association owned and controlled by French interests whose principal place of business and last known address is Shanghai, China and which is controlled by or acting for or on behalf of a designated enemy country (Japan) or a person within such country;

2. Therefore determining that said Societe Francaise des Charbonnages du Tonkin is a national of a designated enemy country (Japan);

3. Finding that the 1,980 iron drums of asphalt pitch stored in the name of Getz Brothers and Company in the Potrero Warehouse of Union Oil Company, San Francisco, California, are owned by said Societe Francaise des Charbonnages du Tonkin, and therefore are property within the United States owned or controlled by a national of a designated enemy country (Japan);

4. Determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of the aforesaid designated enemy country (Japan);

5. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

6. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 3 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof,

or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2557; Filed, February 16, 1943; 11:20 a. m.]

[Vesting Order 733]

CONTRACT RIGHTS OF ROLAND KOMMANDITGESELLSCHAFT AND ERNST OSTHOFF

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Roland Kommanditgesellschaft, a business enterprise doing business at Essen, Germany, is a national of a foreign country (Germany);

2. Finding that said Roland Kommanditgesellschaft is the owner of the interest described in subparagraph 3 hereof;

3. Finding, therefore, that the property described as follows:

The interest of Roland Kommanditgesellschaft in and to a contract by and between Roland Aktiengesellschaft Chemische Fabrik and American Felsol Company, Inc., dated June 30, 1937, relating to trademark No. 199,780 "Felsol" registered June 16, 1925, in the name of "W. C. Feicks, Lorain, Ohio, U. S. A.", together with all accrued royalties and other monies payable or held with respect to such interest,

is property payable or held with respect to a trade-mark or right related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Germany);

4. Finding that Ernst Osthoff, whose last known address is Essen, Germany, is a national of a designated enemy country (Germany);

5. Finding that said Ernst Osthoff is the owner of the interest described in subparagraph 6 hereof;

6. Finding, therefore, that the property described as follows:

The interest of Ernst Osthoff in and to the contract by and between American Felsol Company, Inc. and Ernst Osthoff, by the terms of which American Felsol Company agreed to pay a "salary" of $1800 per quarter to Ernst Osthoff, together with the claim of Ernst Osthoff to the balance accrued under the contract as evidenced by an account payable to him on the books and records of the American Felsol Company,

is property within the United States owned or controlled by a national of a designated enemy country (Germany);

7. Determining that to the extent that said Ernst Osthoff is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of the aforesaid designated enemy country (Germany);

8. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

9. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraphs 3 and 6 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C. on January 23, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2558; Filed, February 16, 1943; 11:16 a. m.]

[Vesting Order 763]

CONTRACT INTERESTS OF ALFRED EICKHOFF

Re: Contract interests of Alfred Eickhoff doing business as Eickhoff Brothers, Gebrueder Eickhoff Maschinenfabrik, and Gebrueder Eickhoff Maschinenfabrik und Eisengiesserei.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Alfred Eickhoff doing business as Eickhoff Brothers and having at one time an office at Scranton, Pennsylvania, is a resident of Germany and is a national of a foreign country (Germany);

2. Finding that Gebrueder Maschinenfabrik of Bochum, Germany, is a business enterprise organized under the laws of Germany and is a national of a foreign country (Germany);

3. Finding that Gebrueder Eickhoff Maschinenfabrik und Eisengiesserei is a business enterprise organized under the laws of Germany and is a national of a foreign country (Germany);

4. Finding that the aforesaid persons have interests in the contracts referred to in subparagraph 5 hereof;

5. Finding, therefore that the property described as follows:

The interest of (i) Alfred Eickhoff doing business as Eickhoff Brothers, his heirs, administrators, executors, assigns and successors, (ii) Gebrueder Eickhoff Maschinenfabrik and (iii) Gebrueder Eickhoff Maschinenfabrik und Eisengiesserei, in and to the following contracts (including all royalties and other moneys due or to become due to each and all of such persons under said contracts and all damages for breach thereof and the right to sue therefor):

(a) Contract dated August 1, 1935, between Alfred Eickhoff doing business as Eickhoff Brothers and Goodman Manufacturing Company, an Illinois corporation, by which Goodman Manufacturing Company acquired a non-exclusive and non-assignable license to manufacture and sell throughout the United States of America and its territorial possessions vibratory chutes or carriers or ball frames as parts of said chutes or carriers embodying the inventions of Patent No. 1,735,137.

(b) Contract dated October 19, 1934, between Alfred Eickhoff doing business as Eickhoff Brothers and American Car and Foundry Co., a New Jersey corporation, by which American Car and Foundry Co. acquired a non-exclusive and non-assignable license to manufacture and sell throughout the United States of America and its territorial possessions vibratory chutes or carriers or ball frames as parts of said chutes or carriers embodying the inventions of Patent No. 1,735,187.

(c) Contract dated August 1, 1935, between Alfred Eickhoff doing business as Eickhoff Brothers and Goodman Manufacturing Company, an Illinois corporation, by which Goodman Manufacturing Company acquired a non-exclusive and non-assignable license to manufacture and sell throughout the United States of America and its territorial possessions guide frames used in combination with shaking conveyors embodying the inventions set forth in Patent No. 1,742,800,

is property payable or held with respect to patents or rights related thereto in which interests are held by, and such property itself constitute interests held therein by, nationals of a foreign country (Germany);

6. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

7. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 5, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it

should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 25, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2559; Filed, February 16, 1943; 11:16 a. m.]

[Vesting Order 771]

OTTILIE STRIEDER

Re: Real property in Shorewood, Wisconsin and certain securities and bank accounts owned by Ottilie Strieder.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that Ottilie Strieder, sometimes known as Tillie Traudt Strieder, is a citizen of Germany whose last known address is Leipzig, Germany, and is a national of a designated enemy country (Germany);

2. Finding that said Ottilie Strieder is the owner of the property described in subparagraph 3 hereof;

3. Finding that the property described as follows:

a. All right, title, interest and estate, both legal and equitable, of Ottilie Strieder, in and to the real property situated at 4468–70 North Frederick Avenue, Shorewood, Wisconsin, more particularly described in Exhibit A attached hereto and made a part hereof, together with all the fixtures, improvements and appurtenances thereto, and any and all claims of Ottilie Strieder for rents, refunds, benefits or other payments arising from the ownership of such property.

b. Those certain securities, more particularly described in Exhibit B attached hereto and made a part hereof, held by William A. Millmann, 2313 East Kensington Boulevard, Shorewood, Wisconsin, attorney-in-fact for Ottilie Strieder, and

c. All right, title, interest and claim of any name or nature whatsoever of said Ottilie Strieder, in and to all obligations, contingent or otherwise and whether or not matured, owing to her by the First Wisconsin National Bank, Milwaukee, Wisconsin, including but not limited to all security rights in and to all collateral for any or all such obligations and the right to sue for and collect such obligations, and including particularly the checking and savings accounts in said bank maintained for her by William A. Millman, attorney-in-fact for Ottilie Strieder,

is property within the United States owned or controlled by a national of a designated enemy country (Germany);

4. Determining that the property described in subparagraphs 3–b and 3–c hereof is necessary for the maintenance or safeguarding of other property (namely, that hereinbefore described in subparagraph 3–a) belonging to the same national of the same designated enemy country and subject to vesting (and in fact vested by this order) pursuant to Section 2 of said Executive Order;

5. Determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of the aforesaid designated enemy country (Germany);

6. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

7. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 3 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 27, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

EXHIBIT A

All that tract or parcel of land situated in the County of Milwaukee, State of Wisconsin, more particularly described as follows:

The West Seventy-five and Fifty-eight Hundredths (75.58) feet of Lot numbered One (1) and the West Seventy-five and Fifty-eight Hundredths (75.58) feet of North Thirteen (13) Feet of Lot numbered Two (2) in Block numbered Five (5), in Lake Bluff, being part of the North West and the South-west One-quarter (¼) of Section numbered Three (3) and the South East Fractional One Quarter (¼) of Section numbered Three (3), in Township numbered Seven (7) North of Range numbered Twenty-two (22) East, in the village of Shorewood.

EXHIBIT B

Description of property item	*Value as of June 14, 1941*
Wacker, Wabash Corp. 5% First Mortgage	55.00
De Paul Educational Society First Mortgage	1,000.00
2 Shares Public Gas and Coke Co.	.50
3 Shares National Dairy Products	39.00
24 Shares General Motors Corp.	924.00
8 Shares Chase National Bank of New York	234.00
6 Shares Public Gas and Coke Co., Pfr.	20.00
20 Shares Empire Gas and Fuel Co., 8% cu. Pfd.	1,840.00
	4,112.50

[F. R. Doc. 43–2560; Filed, February 16, 1943; 11:20 a. m.]

[Vesting Order 773]

CONTRACT RIGHT OF WLODZIMIERZ MARYAN DANIEWSKI

Re: Contract right of Wlodzimierz Maryan Daniewski, Kielce, Poland, relating to Patent No. 1,850,537.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned after investigation:

1. Finding that Wlodzimierz Maryan Daniewski, whose last known address is Kielce, Poland, is a national of a foreign country (Poland);

2. Finding, therefore, that the following property:

The interest (together with all accrued royalties and other moneys payable or held with respect thereto) of said Wlodzimierz Maryan Daniewski in and to that certain agreement between him and Corning Glass Works, Corning, New York, dated November 26, 1928, pursuant to which certain moneys are payable to him in connection with the assignment by him to said company of a patent application and any patent to be issued thereon, which assignment was recorded by the United States Patent Office on December 22, 1928, in liber K–137, page 216 and pursuant to which Patent No. 1,850,537 was issued to the Corning Glass Works by the United States Patent Office on March 22, 1932;

is property payable or held with respect to a patent or right related thereto in which an interest is held by, and such property itself constitutes an interest held therein by, a national of a foreign country (Poland);

3. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise; and

4. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property hereinbefore described in subparagraph 2, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to

indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC–1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of said Executive Order.

Executed at Washington, D. C., on January 28, 1943.

[SEAL] LEO T. CROWLEY,
Alien Property Custodian.

[F. R. Doc. 43–2561; Filed, February 16, 1943; 11:19 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 4 Under MPR 74 as Amended]

BRISTOL PACKING CO.

APPROVAL OF MAXIMUM PRICES

Order No. 4 under § 1363.62 (a) (5) (ii) of Maximum Price Regulation No. 74, as Amended—Animal Product Feedingstuffs.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the provisions of § 1363.62 (a) (5) (ii) of Maximum Price Regulation No. 74, as amended, *It is ordered:*

(a) *Approval of maximum prices for sales of meat scraps by Bristol Packing Company of Lewiston, Idaho with a guaranteed minimum protein content of 53 percent.* Bristol Packing Company of Lewiston, Idaho, may sell and deliver and any person may buy and receive from Bristol Packing Company meat scraps with a guaranteed minimum protein content of 53 percent at a maximum price of $61.03 per ton, f. o. b. conveyance at production plant of Bristol Packing Company located in Zone 1.

(b) *Price adjustments where actual analysis differs from guaranteed minimum protein content.* In any sale made pursuant to the provisions of this Order if the actual analysis differs from the guaranteed minimum percentage of protein permitted by this order, then:

(1) If above the guaranteed minimum percentage of protein, no increase in maximum prices is permitted.

(2) If one percent or less below the guaranteed minimum percentage of protein, deduct $1.50 per ton from the selling price.

(3) If more than one per cent below the guaranteed minimum percentage of protein deduct from the selling price, $1.50 per ton for the first percent and $3.00 per ton for each additional percent or fraction thereof.

(c) *Notification of maximum prices.* Bristol Packing Company shall provide the following notice of the maximum price established by this order with the first delivery to each buyer of meat scraps having a guaranteed minimum protein content of 53 per cent.

The Office of Price Administration has permitted us to sell meat scraps with a guaranteed minimum protein content of 53 per cent at a maximum price of $61.03 per ton, f. o. b. our production plant, which is in line with the maximum prices established for the product by Maximum Price Regulation No. 74, as amended. The Office of Price Administration has not permitted you or any other seller to raise maximum prices for sales of these meat scraps.

(d) All prayers and requests contained in the application of the Bristol Packing Company which have not been granted herein are denied.

(e) This Order No. 4 may be revoked or amended by the Price Administrator at any time.

(f) Every provision of Maximum Price Regulation No. 74, as amended, except so far as this order permits the sale of meat scraps on a 53 per cent protein basis, shall apply to sales of meat scraps by the Bristol Packing Company.

(g) This Order No. 4 shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–2487; Filed, February 15, 1943; 12:31 p. m.]

[Order 163 Under MPR 120]

ANCHOR COAL COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 163 under Maximum Price Regulation No. 120—Bituminous Coal Delivered From Mine or Preparation Plant—Docket No. 3120–302.

For the reasons set forth in an opinion issued simultaneously herewith, and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1340.207 (b) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coals produced by Anchor Coal Company, Whitesville, West Virginia, at its Anchor No. 5 Mine, Mine Index No. 492, in District No. 8, may be sold and purchased for shipment by rail and via Great Lakes at prices not to exceed the following respective prices per net ton f. o. b. the mine:

Size group	Rail shipment	Shipment via Great Lakes
9	$2.75	$2.80
16	2.80	2.80
18	2.70	2.70
19, 20, 21	2.65	2.65

(b) Within thirty (30) days from the effective date of this order, the said Anchor Coal Company shall notify all persons purchasing its coals of the adjustments granted in paragraph (a) of this order, and shall include a statement that if the purchaser is subject to Revised Maximum Price Regulation No. 122 in the resale of coal, the adjustments granted in this order do not authorize any increase in the purchaser's resale price except in accordance with and subject to the conditions stated in Revised Maximum Price Regulation No. 122.

(c) This Order No. 163 may be revoked or amended by the Administrator at any time;

(d) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein;

(e) This Order No. 163 shall become effective February 16, 1943.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43–2491; Filed, February 15, 1943; 12:30 p. m.]

[Order 164 Under MPR 120]

MACON MULKEY COAL COMPANY

ORDER GRANTING ADJUSTMENT

Order No. 164 under Maximum Price Regulation No. 120—Bituminous Coal Delivered from Mine or Preparation Plant—Docket No. 3120–256.

For the reasons set forth in an opinion issued simultaneously herewith, and pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1340.207 (b) of Maximum Price Regulation No. 120, *It is ordered:*

(a) Coal produced by the Macon Mulkey Coal Company, Macon, Missouri, at its No. 1 Mine, Mine Index No. 59, in District No. 15, in Size Group 2, for shipment by all methods of transportation to all destinations and for all uses may be sold and purchased at a price not to exceed $2.95 per ton f. o. b. the mine;

(b) Within thirty (30) days from the effective date of this order, the Macon Mulkey Coal Company shall notify all persons purchasing its coal of the adjustments granted in paragraph (a) of this order, and shall include a statement that if the purchaser is subject to Revised Maximum Price Regulation No. 122 in the resale of coal, the adjustments granted in this order do not authorize any increase in the purchaser's resale prices except in accordance with and subject to conditions stated in Revised Maximum Price Regulation No. 122.

(c) This Order No. 164 may be revoked or amended by the Administrator at any time;

(d) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to the terms used herein;

(e) All prayers of the petition not granted herein are hereby denied.

(f) This Order No. 164 shall become effective February 16, 1943.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2492; Filed, February 15, 1943; 12:31 p. m.]

[Order 3 Under MPR 177]

SOUTHEASTERN CLOTHING CORPORATION

ORDER GRANTING MAXIMUM PRICES

Order No. 3 under § 1389.106 of Maximum Price Regulation 177—Men's and Boys' Tailored Clothing.

For the reasons stated in the opinion issued simultaneously herewith, *It is hereby ordered:*

(a) Southeastern Clothing Corporation of 16–20 West 19th Street, New York, New York, may sell and deliver and any person may buy and receive from Southeastern Clothing Corporation, sport coats at prices not in excess of those which may be determined under paragraphs (b) and (c) of this order.

(b) The following shall be the maximum prices for the garments set forth, and for any garments similar thereto, sold or delivered by Southeastern Clothing Corporation, otherwise than at retail:

(1) $3.37½ for cadet sport coats, sizes 8 to 20 inclusive, made of goods sold by C. M. Hoff Company as range number 309, made with New York market grade D tailoring.

(2) $6.12 for young men's sport coats, sizes 33 to 42, made of goods sold by L. Bachmann and Company, Inc., as La Porte Range 693, one-half lined with iridescent rayon 92-count, made with New York market boys' grade A tailoring.

(c) The maximum price of Southeastern Clothing Corporation for any other young men's sport coat or cadet sport coat shall be determined by adding to the "current cost" of the garment, as determined under § 1389.119 (a) (4) of Maximum Price Regulation 177, a percentage margin of 16⅔ percent on the selling price. But no maximum price shall exceed $4.50 for a cadet's sport coat, or $6.50 for a young men's sport coat.

(d) The permission granted in this order is subject to the following conditions:

All discounts and trade practices, including practices relating to shipping and shipping charges, which were observed by Southeastern Clothing Corporation during the months of July to November 1941, inclusive, shall apply to sales for which maximum prices are determined under this order.

(e) All requests of the application which are not granted by this order are denied.

(f) This order may be revoked or amended by the Price Administrator at any time.

(g) Unless the context otherwise requires, the definitions set forth or incorporated in Maximum Price Regulation 177 apply to terms used in this order.

This Order No. 3 shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2489; Filed, February 15, 1943; 12:31 p. m.]

[Order 25 Under MPR 152]

COLEMAN CANNING COMPANY

APPROVAL OF MAXIMUM PRICE

Order No. 25 under Maximum Price Regulation No. 152—Canned Vegetables.

The Coleman Canning Company, Coleman, Wisconsin, has filed an application for specific authorization to charge particular maximum prices pursuant to § 1341.22 (d) of Maximum Price Regulation No. 152.

Due consideration has been given to the information submitted by Applicant with respect to the packing of fancy 4 sieve cut wax beans and fancy 4 sieve cut green beans in No. 1 size cans.

For the reasons set forth in the Opinion which accompanies this Order and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, *It is hereby ordered* That:

(a) The Coleman Canning Company may sell, offer to sell or deliver and any person may buy, offer to buy or receive fancy 4 sieve cut wax beans and fancy 4 sieve cut green beans packed in No. 1 size cans at a maximum price of $.88 per dozen f. o. b. factory.

(b) This Order No. 25 may be revoked or amended by the Price Administrator at any time.

(c) The Applicant, Coleman Canning Company, shall not change its customary allowances, discounts or price differentials unless such change results in a lower price.

(d) Unless the context otherwise requires the definitions set forth in § 1341.30 of Maximum Price Regulation No. 152 and section 302 of the Emergency Price Control Act of 1942, as amended, shall be applicable to the terms used herein.

(e) This order shall become effective on 16th day of February 1943.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2490; Filed, February 15, 1943; 12:31 p. m.]

[Order 3 Under MPR 214]

STANDARD ALLOY CO.

ADJUSTMENT OF MAXIMUM PRICE

Order No. 3 under Maximum Price Regulation No. 214—High Alloy Castings—Docket No. 3214-5.

For the reasons set forth in the opinion issued simultaneously herewith and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250 and in accordance with Revised Procedural Regulation No. 1 issued by the Office of Price Administration, *It is hereby ordered:*

Adjustment of maximum price of Standard Alloy Company on sales of high alloy fan housing castings to Lindberg Engineering Company. (a) Notwithstanding anything to the contrary contained in Maximum Price Regulation No. 214, Standard Alloy Company, Cleveland, Ohio, may sell and deliver high alloy fan housing castings of an analysis of 25% chrome, 12% nickel for industrial ovens and furnaces to Lindberg Engineering Company, Chicago, Illinois at a price not to exceed 59 cents per pound and Lindberg Engineering Company may buy and receive said castings as above. This price of 59 cents per pound is a delivered price, i. e., f. o. b. the foundry with freight allowed to destination, and includes all extras.

(b) All prayers of petition not granted herein are denied.

(c) This Order No. 3 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 3 shall become effective February 16, 1943 and shall become retroactively effective December 18, 1942, the date on which Standard Alloy Company filed its application for adjustment.

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2488; Filed, February 15, 1943; 12:29 p. m.]

[Order 1 Under § 1315.51 (f) of RPS 56]

BOSTON WOVEN HOSE AND RUBBER COMPANY

AUTHORIZATION OF MAXIMUM PRICES

On January 29, 1943, Boston Woven Hose and Rubber Company of Boston, Massachusetts, filed its application with the Office of Price Administration seeking specific authorization pursuant to § 1315.51 (f) of Revised Price Schedule No. 56—Reclaimed Rubber, of a maximum price for a grade of reclaimed rubber produced by Boston Woven Hose and Rubber Company described as No. 611 Special. Due consideration has been given to the application and an opinion in support of this order has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1315.51 (f) of Revised Price Schedule No. 56 issued by the Office of Price Administration, *It is hereby ordered:*

(a) The maximum prices which may be charged by Boston Woven Hose and Rubber Company, Boston, Massachusetts, for No. 611 Special reclaimed rubber shall be $.0657 per pound when sold in

less than carload lots and $.0532 per pound when sold in carload lots.

(b) Boston Woven Hose and Rubber Company shall pay all transportation charges incurred in the delivery of No. 611 Special reclaimed rubber but is not required by this Order No. 1 to pay more than 30 cents per hundred pounds.

(c) This Order No. 1 may be revoked or amended by the Office of Price Administration at any time.

(d) This Order No. 1 shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2435; Filed, February 15, 1943; 12:32 p. m.]

[Order 2 Under § 1315.51 (f) of RPS 56]

LANDERS CORPORATION

AUTHORIZATION OF MAXIMUM PRICE

On February 2, 1943, Landers Corporation, of Toledo, Ohio, filed its application with the Office of Price Administration seeking specific authorization pursuant to §1315.51 (f) of Revised Price Schedule No. 56—Reclaimed Rubber, of a maximum price for boot and shoe reclaimed rubber purchased from Pequanoc Rubber Company and U. S. Rubber Reclaiming Company. Due consideration has been given to the application and an opinion in support of this order has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with § 1315.51 (f) of Revised Price Schedule No. 56 issued by the Office of Price Administration, *It is hereby ordered:*

(a) The maximum price which may be charged by Landers Corporation, Toledo, Ohio, for boot and shoe reclaimed rubber purchased by it from Pequanoc Rubber Company and U. S. Rubber Reclaiming Company when sold f. o. b. the present location of the reclaimed rubber shall be 7⅜ cents per pound.

(b) This Order No. 2 may be revoked or amended by the Office of Price Administration at any time.

(c) This Order No. 2 shall become effective February 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 15th day of February 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-2486; Filed, February 15, 1943; 12:31 p. m.]

Regional Office, Region I.

[Emergency Order 4 Under Ration Order 11]

FUEL OIL SHORTAGE IN GREATER BOSTON AREA AND CONNECTICUT

Pursuant to the authority conferred upon the Regional Administrator by § 1394.5715 of Ration Order No. 11, as amended, the following emergency order is prescribed:

(a) *Findings.* The Regional Administrator finds that in the territory served by the terminal and storage facilities of the Greater Boston Supply Area, as established under § 1510.29 (b) of Petroleum Directive 59, and in the State of Connecticut, as the result of the continuing inadequacy of the supply of fuel oils of grades Nos. 2, 3 and 4, including Diesel oil and gas oil, there exists an emergency in the transportation and distribution of such fuel oils which endangers the public health, the public welfare and the war effort.

(b) *Scope of order.* (1) Nothing in this emergency order shall be construed to limit the quantity of fuel oil of any grade which may be acquired by the persons listed in § 1394.5052 of Ration Order No. 11.

(2) This emergency order applies only to fuel oils of grades Nos. 2, 3 and 4, including Diesel oil and gas oil, and does not apply to fuel oil of grade No. 1, commonly known as range oil or kerosene. The oils covered by this order are hereinafter referred to as "distillate oil." Nothing in this emergency order shall be construed to affect the operation of Emergency Order No. 1 as amended.

(3) This emergency order shall be effective in the State of Connecticut and in the territory served by the terminal and storage facilities of the Greater Boston Supply Area, as established under § 1510.29 (b) of Petroleum Directive 59, and shall include:

(i) All of the State of Connecticut;

(ii) In Massachusetts, the Counties of Suffolk and Essex; Middlesex County (except Ashby, Townsend, Shirley, Ayer, Hopkinton and Holliston); Norfolk County (except Medway, Bellingham, Franklin, Wrentham, Plainville and Foxboro); Plymouth County (except Lakeville, Middleboro, Carver, Plymouth, Rochester, Wareham, Marion and Mattapoisett); and the town of Easton in Bristol County.

(c) *Order.* During the effective period of this order, notwithstanding the provisions of § 1394.5661 of Ration Order No. 11 relating to discrimination in transfers to consumers,

(1) No dealer shall transfer or deliver distillate oil to any consumer nor shall any consumer accept a transfer or delivery if such consumer has on hand a supply sufficient to meet his estimated needs for seven days.

(2) No dealer shall transfer or deliver distillate oil to any consumer nor shall any consumer accept a transfer or delivery in an amount greater than his estimated consumption for a ten day period: *Provided, however,* That this limitation of the amount of a delivery shall not operate to prohibit a delivery

(i) To the extent of 100 gallons, where 100 gallons is more than a ten days' supply, or

(ii) In excess of a ten days' supply where extraordinary circumstances of transportation or distribution require it.

(3) Notwithstanding the provisions of paragraphs (1) and (2), a dealer whose stocks are, in his judgment, too low to warrant such deliveries shall not be required to make a delivery to any consumer who has an estimated three days' supply on hand, nor shall any dealer be required to make a delivery to any consumer in an amount greater than his estimated consumption for a three day period: *Provided, however,* That any public utility engaged in the production and distribution of gas or electricity shall be entitled to demand and receive a supply sufficient, when added to its stock on hand, to meet its estimated needs for a seven day period.

(4) *List of priorities of transfers and deliveries.* During the effective period of this order, notwithstanding the provisions of § 1394.5661 of Ration Order No. 11, relating to discrimination in transfers to consumers, transfers and deliveries of distillate oil shall be made to all consumers on the following list, to the extent at least of their minimum requirements as provided by paragraph (c) (3), prior to deliveries to any other consumers;

(i) Consumers who require distillate oil for use in private dwellings;

(ii) Consumers who require distillate oil for use in other buildings used for residential purposes, including hospitals, apartment houses, hotels, rooming houses and the like;

(iii) Consumers who, in accordance with paragraph 9 of this order, obtain from a Local War Price and Rationing Board a certification in writing that they require distillate oil to a specified amount to meet an emergency involving a serious threat to life, health or valuable property, and who furnish such certification to the dealer prior to delivery;

(iv) Consumers requiring distillate oil for power and processing whose use of distillate oil for such purposes is exclusively in operations listed in Schedule A of Petroleum Administrative Order No. 3: *Provided,* That each such consumer who has not delivered to his dealer the certification prescribed in said Order No. 3 shall certify in writing to his dealer forthwith that his use of fuel oil for power and processing is exclusively in operations listed in said Schedule A: *And provided further,* That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office;

(v) Consumers requiring distillate oil for space heating or hot water whose use of distillate oil for such purposes is exclusively in connection with operations listed in Schedule A of Petroleum Administrative Order No. 3: *Provided,* That each such consumer so certify in writing to his dealer forthwith: *And provided further,* That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office;

(vi) Consumers engaged partially in operations listed on Schedule A of Petroleum Administrative Order No. 3, to the

extent necessary to enable them to carry on such operations (including distillate oil for the purposes of space heating and hot water as well as power and processing), *Provided*, That each such consumer certify in writing to his dealer the percentage of his present ration that is necessary to enable him to carry on such operations, *and Provided further*, That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office;

(vii) Consumers none of whose operations are included in Schedule A of Petroleum Administrative Order No. 3 to the extent that the Director of Region I of the War Production Board, or his duly authorized representative, may certify that they are engaged in essential war production the temporary interruption of which would seriously impede the war effort, provided that each such consumer shall furnish to his dealer such certificate or a copy thereof, prior to delivery. Such certification may cover distillate oil for the purposes of space heating and hot water as well as power and processing. The numerical arrangement of the foregoing list does not indicate priority of any consumer over any other consumer on such list, except that if at any time the supply is insufficient to meet the requirements of the entire list the Director of Region I of the War Production Board or his duly authorized representative may prescribe the order and extent of priority in which consumers referred to in paragraphs (iv) (v) (vi) and (vii) shall be supplied.

(5) Any dealer shall refuse to make deliveries to consumers not on the priority list whenever from the state of his inventory and his anticipated receipts he reasonably believes that he will be unable to continue to satisfy the requirements of priority users for the five days next following.

(6) Any dealer who has satisfied all the minimum demands for distillate oil to the extent provided in paragraphs (c) (1), (2), and (3) made upon him by consumers on the priority list and who is not exercising his right under paragraph (5) to refuse to make deliveries to consumers not on the priority list shall thereafter give preference to the minimum demands of consumers who require distillate oil for use in buildings used exclusively for one or more of the following purposes: Retail food stores, drug stores, restaurants not commonly regarded as places of entertainment or amusement, laundries, police stations, fire stations, post offices, court houses, schools, churches, and the carrying on of federal, state, or local governmental functions.

(7) Any dealer who has satisfied all minimum demands for distillate oil to the extent provided in paragraphs (1), (2), and (3) made upon him by consumers on the priority list, and who has satisfied all minimum demands of consumers entitled to preferential deliveries under paragraph (6) may thereafter subject to § 1394.5661 of Ration Order No. 11 relating to discrimination in transfers to consumers, make transfers or deliveries out of his remaining stocks of such distillate oil to any consumer, including consumers a portion of whose requirements have been given priority under paragraphs (vi) and (ii) above, except that the following are prohibited:

(i) Delivery to, and acceptance by, consumers for use in buildings operated exclusively for purposes of amusement, entertainment, athletics or sports, including but not limited to theatres, night clubs, bowling alleys, pool rooms, dance halls, bar rooms and skating rinks;

(ii) Acceptance by consumers of delivery for use in buildings devoted in part to purposes of amusement, entertainment, athletics or sports, unless every practicable means has been taken to cut off the radiation and circulation of heat to the portion of such buildings devoted to purposes of amusement, entertainment, athletics or sports. Deliveries allowable under this paragraph shall be no more than sufficient to meet such consumers' reduced needs.

(8) Any dealer who in good faith refuses to make a delivery to a consumer because of a reasonable belief that such consumer falls within the class of consumers deliveries to whom are prohibited shall not be deemed to have committed a violation of the provisions of § 1394.-5661 of Ration Order No. 11 relating to discrimination in transfers to consumers.

(9) Any consumer who requires a transfer for an emergency involving serious threat to life, health, or valuable property may, upon satisfying a Local Board of the genuineness of the need and the lack of other means of meeting it, obtain from the Local Board a certification of the existence of the emergency which will authorize delivery of a specified amount to such consumer to the same extent as if he were on the priority list above.

(10) *Definitions.* All terms in this order which are defined in Ration Order No. 11 shall have the meaning assigned to them in that ration order.

(11) *Penalties.* Any violation of this order shall be deemed a violation of Ration Order No. 11.

(12) *Restrictions on transfers to consumers.* Nothing contained in this emergency order shall be construed to increase the allowable ration of any consumer or to authorize a transfer or delivery of fuel of any grade to a consumer except in exchange for valid coupons or other evidences, or delivery receipts, authorized by Ration Order No. 11.

(13) *Effective period.* This order shall take effect at 12:01 a. m. February 12, 1943, and shall terminate at 12:00 midnight February 21, 1943, unless extended by further order.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, and 507, 77th Cong.; W.P.B. Dir. 1, 7 F.R. 562, Supp. Dir. 1–0 7 F.R. 8418; E.O. 9125, 7 F.R. 2719, Ration Order No. 11, 7 F.R. 8480)

Issued this 11th day of February 1943.

KENNETH B. BACKMAN,
Regional Administrator.

[F. R. Doc. 43–2523; Filed, February 15, 1943; 4:42 p. m.]

[Emergency Order 5 Under Ration Order 11]

RESIDUAL OIL SHORTAGE IN SOUTHERN NEW ENGLAND

Pursuant to the authority conferred upon the Regional Administrator by § 1394.5715 of Ration Order No. 11, as amended, the following emergency order is prescribed:

(a) *Findings.* The Regional Administrator finds that in the States of Connecticut, Massachusetts, and Rhode Island, as the result of the continuing inadequacy of the supply of residual oils, there exists an emergency in the transportation and distribution of such residual oils which endangers the public health, the public welfare and the war effort.

(b) *Scope of order.* (1) Nothing in this emergency order shall be construed to limit the quantity of fuel oil of any grade which may be acquired by the persons listed in § 1394.5052 of Ration Order No. 11.

(2) This emergency order applies only to fuel oils of grades Nos. 5 and 6, and any other grade of residual oil commonly known or sold as Bunker "C". The oils covered by this order are hereinafter referred to as Bunker "C" oil.

(3) This emergency order shall be effective in the States of Connecticut, Massachusetts, and Rhode Island.

(c) *Order.* During the effective period of this order, notwithstanding the provisions of § 1394.5661 of Ration Order No. 11 relating to discrimination in transfer to consumers,

(1) No dealer shall transfer or deliver Bunker "C" oil to any consumer nor shall any consumer accept a transfer or delivery if such consumer has on hand a supply of such Bunker "C" oil sufficient to meet his estimated needs for three days.

(2) No dealer shall transfer or deliver Bunker "C" oil to any consumer nor shall any consumer accept a transfer or delivery in an amount which, when added to his stock on hand, is greater than his estimated needs for three days: *Provided, however*, That this limitation on the amount of a delivery shall not operate to prohibit a delivery of a greater amount:

(i) Where such greater amount represents the minimum practicable delivery, or

(ii) Where extraordinary circumstances of transportation or distribution require the delivery of a greater amount.

(3) Notwithstanding the provisions of paragraphs (1) and (2) any public utility engaged in the production and distribution of gas or electricity shall be entitled to demand and receive a supply sufficient, when added to its stock on hand, to meet its estimated needs for a seven day period.

(4) *List of priorities of transfers and deliveries.* During the effective period of this order, notwithstanding the provisions of § 1394.5661 of Ration Order No. 11, relating to discrimination in transfers to consumers, transfers and deliveries of Bunker "C" oil shall be made to all consumers on the following list, for the purposes specified, subject to the provisions of paragraphs (c) (1) (2) and (3), prior to deliveries to any other consumers:

(i) Consumers who require Bunker "C" oil for use in private dwellings;

(ii) Consumers who require Bunker "C" oil for use in other buildings used for residential purposes, including hospitals, apartment houses, hotels, rooming houses and the like;

(iii) Consumers who in accordance with paragraph 9 of this order, obtain from a local War Price and Rationing Board a certification in writing that they require Bunker "C" oil to a specified amount to meet an emergency involving a serious threat to life, health or valuable property, and who furnish such certification to the dealer prior to delivery;

(iv) Consumers requiring Bunker "C" oil for power and processing whose use of Bunker "C" oil for such purposes is exclusively in operations listed in Schedule A of Petroleum Administrative Order No. 3: *Provided,* That each such consumer who has not delivered to his dealer the certification prescribed in said Order No. 3 shall certify in writing to his dealer forthwith that his use of Bunker "C" oil for power and processing is exclusively in operations listed in said Schedule A: *And provided further,* That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office.

(v) Consumers requiring Bunker "C" oil for space heating or hot water whose use of Bunker "C" oil for such purposes is exclusively in connection with operations listed in Schedule A of Petroleum Administrative Order No. 3, *Provided,* That each such consumer so certify in writing to his dealer forthwith: *And provided further,* That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office.

(vi) Consumers engaged partially in operations listed on Schedule A of Petroleum Administrative Order No. 3, to the extent necessary to enable them to carry on such operations (including Bunker "C" oil for the purposes of space heating and hot water as well as power and processing): *Provided,* That each such consumer certify in writing to his dealer the percentage of his present ration that is necessary to enable him to carry on such operations: *And provided further,* That a copy of such certification shall be forthwith sent by each such consumer to the nearest District Office of the War Production Board. No particular form of certificate shall be required, but each certificate shall recite that a copy thereof has been sent to the said District Office.

(vii) Consumers none of whose operations are included in Schedule A of Petroleum Administrative Order No. 3 to the extent that the Director of Region I of the War Production Board, or his duly authorized representative, may certify that they are engaged in essential war production the temporary interruption of which would seriously impede the war effort: *Provided,* That each such consumer shall furnish to his dealer such certificate or a copy thereof, prior to delivery. Such certification may cover Bunker "C" oil for the purposes of space heating and hot water as well as power and processing.

The numerical arrangement of the foregoing list does not indicate priority of any consumer over any other consumer on such list, except that if at any time the supply is insufficient to meet the requirements of the entire list the Director of Region I of the War Production Board or his duly authorized representative may prescribe the order and extent of priority in which consumers referred to in paragraphs (iv) (v) (vi) and (vii) shall be supplied.

(5) Any dealer shall refuse to make deliveries to consumers not on the priority list whenever from the state of his inventory and his anticipated receipts he reasonably believes that he will be unable to continue to satisfy the requirements of priority users for the five days next following.

(6) Any dealer who has satisfied all the minimum demands for Bunker "C" oil to the extent provided in paragraphs (c) (1), (2), and (3) made upon him by consumers on the priority list and who is not exercising his right under paragraph (5) to refuse to make deliveries to consumers not on the priority list shall thereafter give preference to the minimum demands of consumers who require Bunker "C" oil for use in buildings used exclusively for one or more of the following purposes: Retail food stores, drug stores, restaurants not commonly regarded as places of entertainment or amusement, laundries, police stations, fire stations, post offices, court houses, schools, churches, and the carrying on of federal, state, or local governmental functions.

(7) Any dealer who has satisfied all minimum demands for Bunker "C" oil to the extent provided in paragraphs (c) (1), (2), and (3) made upon him by consumers on the priority list, and who has satisfied all minimum demands of consumers entitled to preferential deliveries under paragraph (6) may thereafter, subject to § 1394.5661 of Ration Order No. 11 relating to discrimination in transfers to consumers, make transfers or deliveries out of his remaining stocks of such Bunker "C" oil to any consumer, including consumers a portion of whose requirements have been given priority under paragraphs (vi) and (vii) above, except that the following are prohibited:

(i) Delivery to, and acceptance by, consumers for use in buildings operated exclusively for purposes of amusement, entertainment, athletics or sports, including but not limited to theatres, night clubs, bowling alleys, pool rooms, dance halls, bar rooms and skating rinks;

(ii) Acceptance by consumers of delivery for use in buildings devoted in part to purposes of amusement, entertainment, athletics or sports, unless every practicable means has been taken to cut off the radiation and circulation of heat to the portion of such buildings devoted to purposes of amusement, entertainment, athletics or sports. Deliveries allowable under this paragraph shall be no more than sufficient to meet such consumers' reduced needs.

(8) Any dealer who in good faith refuses to make a delivery to a consumer because of a reasonable belief that such consumer falls within the class of consumers deliveries to whom are prohibited shall not be deemed to have committed a violation of the provisions of § 1394.5661 of Ration Order No. 11 relating to discrimination in transfers to consumers.

(9) Any consumer who requires a transfer for an emergency involving serious threat to life, health, or valuable property may, upon satisfying a local board of the genuineness of the need and the lack of other means of meeting it, obtain from the local board a certification of the existence of the emergency which will authorize delivery of a specified amount to such consumer to the same extent as if he were on the priority list above.

(10) *Definitions.* All terms in this order which are defined in Ration Order No. 11 shall have the meaning assigned to them in that ration order.

(11) *Penalties.* Any violation of this order shall be deemed a violation of Ration Order No. 11.

(12) *Restrictions on transfers to consumers.* Nothing contained in this emergency order shall be construed to increase the allowable ration of any consumer or to authorize a transfer or delivery of fuel oil of any grade to a consumer except in exchange for valid coupons or other evidences, or delivery receipts, authorized by Ration Order No. 11.

(13) *Effective period.* This order shall take effect at 12:01 a. m. February 12, 1943, and shall terminate at 12:00 midnight February 21, 1943, unless extended by further order.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, and 507, 77th Cong.; W.P.B. Dir. 1, 7 F.R. 562, Supp. Dir. 1–0 7 F.R. 8418; E.O. 9125, 7 F.R. 2719, Ration Order No. 11, 7 F.R. 8480)

Issued this 11th day of February 1943.

KENNETH B. BACKMAN,
Regional Administrator.

[F. R. Doc. 43–2524; Filed, February 15, 1943; 4:42 p. m.]

Regional Office, Region II.

[Order 1 Under § 1340.260 of Rev. MPR 122]

PENNSYLVANIA ANTHRACITE IN CERTAIN BOROUGHS OF NEW YORK CITY

Order No. 1 under § 1340.260 of Revised Maximum Price Regulation No. 122—Solid Fuels Sold and Delivered by Dealers: Pennsylvania Anthracite Delivered by Dealers in the Boroughs of Manhattan, Bronx, Brooklyn and Queens, City of New York, State of New York.

Pursuant to the Emergency Price Control Act of 1942, as amended, and § 1340.260, as amended, of Revised Maximum Price Regulation No. 122, and for the

reasons set forth in an opinion issued simultaneously herewith; *It is ordered:*

(a) *Maximum prices established by this order.* The maximum prices of dealers for Pennsylvania anthracite, in the sizes and quantities set forth in Schedules I to IV hereof (contained in paragraphs (d) and (g), respectively), delivered to or at any point in the zones described in such schedules, shall be the applicable zone maximum prices prescribed therein. The maximum delivered price shall be determined by reference to the appropriate schedule of this order covering the zone to which the delivery is made, whether the dealer is located in one of said four zones, or elsewhere. The maximum price for a "yard" sale, as herein defined, shall be determined by reference to the appropriate schedule covering the zone in which the purchaser takes physical possession or custody of the anthracite.

(b) *What this order prohibits.* Regardless of any contract or other obligation, no person shall:

(1) Sell or, in the course of trade or business, buy Pennsylvania anthracite, of the sizes and in the quantities set forth in the schedules herein, at prices higher than the applicable maximum prices specified in such schedules, though less than maximum prices may be charged, paid or offered;

(2) Obtain any price higher than the applicable maximum price by changing the discounts authorized herein; or charging a price for any service set forth in the schedules higher than the maximum price prescribed therein for such service; or charging for any service for which a charge is not specifically authorized by the applicable schedule; or increasing any interest rate on debts over that charged in December, 1941; or using any other device by which a price higher than the applicable maximum price is obtained; or using any tying agreement or imposing any requirement that anything other than the fuel requested by the buyer be purchased by him.

(c) *Method of computing maximum prices.* The specific maximum prices for sales of Pennsylvania anthracite on a delivered basis, in the sizes and quantities set forth in Schedules I to IV hereof (contained in paragraphs (d) to (g), respectively), shall be computed by deducting from the applicable prices set forth in paragraph (1) (i) of each schedule, the amount of the discounts set forth in paragraph (1) (ii) of each schedule. The amount of such discounts shall be separately stated. There may be added, for certain services actually rendered by the dealer at the request of the purchaser, an amount not in excess of the amount specified in paragraph (1) (iii) of each schedule as the maximum authorized charge for such service, provided such amount is separately stated. The required discounts and the maximum authorized service charges are generally stated in terms of an amount per net ton, or per 100 lbs. In the case of deliveries of fractions of a net ton, or fractions of 100 lbs., respectively, the required discounts and the maximum authorized service charges shall be apportioned accordingly, to the nearest full cent. The specific maximum prices for "yard" sales shall be the applicable prices set forth in paragraph (2) of each schedule.

(d) *Schedule I, covering Manhattan and part of the Bronx.* Schedule I establishes specific maximum prices for certain sizes of Pennsylvania anthracite, in certain specific quantities, delivered to or at any point within Zone I. Zone I embraces the Borough of Manhattan and that part of the Borough of the Bronx which is west and south of the Bronx River.

(1) *Delivered sales*—(i) *Sales made on a "sidewalk delivery" basis.*

Size	Per net ton, for sales of 5 tons or more	Per net ton, for sales of less than 5 tons, but more than ½ ton	½ ton	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$12.80	$13.05	$6.80	$.90	$0.10
Pea	11.10	11.35	5.95	.80	.09
Buckwheat	8.70	8.95	4.75	------	------
Rice	7.85	8.10	4.30	------	------
Barley	7.00	7.25	3.90	------	------

(ii) *Required discounts.* The following discounts, per net ton, shall be deducted from the prices set forth in paragraph (1) (i) of this schedule for payment on or before the tenth day of the month immediately following the month during which delivery was made:

Sizes:	*Required discounts (cents)*
Broken, egg, stove, nut	15
Pea, buckwheat	10
Rice, barley	5

(iii) *Maximum authorized service charges.*

Special service rendered	*Maximum authorized charge (cents per net ton)*
Single trim	30
Double trim	45
Regular labor (where it is necessary to move the coal by regular labor from the truck to the chute or window, and, then, as a separate operation, from the cellar floor to the bin, two, but no more than two, regular labor charges may be made)	60
Carry labor:	
No more than 2 steps up or down	80
For each additional 2 steps up or down	5
	(Cents per 100 lbs.)
Carrying upstairs, in deliveries of 100 lbs. or more but not more than one ton, for each full flight of stairs above the ground floor (Where a charge is made for carrying upstairs, no charge may be made for carry labor)	10

(2) *"Yard" sales.*

Size	Per net ton, for sales of ½ ton or more	Per 100 lbs. for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$11.00	$.80	$.09
Pea	9.20	.70	.08
Buckwheat	7.25	----------	----------
Rice	6.40	----------	----------
Barley	5.50	----------	----------

(e) *Schedule II, covering that part of the Bronx not included in Schedule I.* Schedule II establishes specific maximum prices for certain sizes of Pennsylvania anthracite, in certain specific quantities, delivered to or at any point within Zone II. Zone II embraces that part of the Borough of the Bronx not included in Zone I, and which is north and east of the Bronx River.

(1) *Delivered sales*—(i) *Sales made on a "sidewalk delivery" basis.*

Size	Per net ton, for sales of 5 tons or more	Per net ton, for sales of 3 tons or more, but less than 5 tons	Per net ton, for sales of more than ½ ton, but less than 3 tons	½ ton	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$12.80	$13.25	$13.50	$7.00	$.90	$.10
Pea	11.10	11.55	11.80	6.15	.80	.09
Buckwheat	8.70	8.95	8.95	4.75	------	------
Rice	7.85	8.10	8.10	4.30	------	------
Barley	7.00	7.25	7.25	3.90	------	------

(ii) *Required discounts.* The following discounts, per net ton, shall be deducted from the prices set forth in paragraph (1) (i) of this schedule for payment on or before the tenth day of the month immediately following the month during which delivery was made:

Sizes:	*Required discounts (cents)*
Broken, egg, stove, nut	15
Pea, Buckwheat	10
Rice, Barley	5

(iii) *Maximum authorized service charges.*

Special services rendered	*Maximum authorized charges (cents per net ton)*
Single trim	30
Double trim	45
Regular labor (where it is necessary to move the coal by regular labor from the truck to the chute or window, and, then, as a separate operation, from the cellar floor to the bin, two, but no more than two, regular labor charges may be made)	60
Carry labor:	
No more than 2 steps up or down	80
For each additional 2 steps up or down	5
	(cents per 100 lbs.)
Carrying upstairs, in deliveries of 100 lbs. or more but not more than one ton, for each full flight of stairs above the ground floor (where a charge is made for carrying upstairs, no charge may be made for carry labor)	10

(2) *"Yard" sales.*

Size	Per net ton, for sales of ½ ton or more	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$11.00	$0.80	$0.09
Pea	9.20	.70	.08
Buckwheat	7.50	----------	----------
Rice	6.65	----------	----------
Barley	5.50	----------	----------

(f) *Schedule III, covering Brooklyn and Western Queens.* Schedule III es-

tablishes specific maximum prices for certain sizes of Pennsylvania anthracite, in certain specific quantities, delivered to or at any point within Zone III. Zone III embraces the Borough of Brooklyn and that part of the Borough of Queens which is referred to herein as Western Queens, and is defined in paragraph (q) (12) of this order.

(1) *Delivered sales*—(i) *Sales made on a "delivered to storage" basis.*

Size	Per net ton, for sales of more than ½ ton	½ ton	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$13.25	$6.90	$.90	$.10
Pea	11.70	6.10	.80	.09
Buckwheat	8.75	4.65		
	[1] 9.25	[1] 4.90		
Rice	7.75	4.15		
	[1] 8.25	[1] 4.40		
Barley	6.90	3.70		

[1] Rescreened.

(ii) *Required discounts.* There shall be deducted from the prices set forth in paragraph (1) (i) of this schedule, on sales and delfveries of broken, egg, stove, nut and pea sizes of Pennsylvania anthracite, a discount of twenty-five cents (25¢) per net ton, for cash on delivery. For payment on or before the tenth day of the month immediately following the month during which delivery was made, there shall be deducted from such prices, on sales and deliveries of all the sizes of Pennsylvania anthracite set forth in the schedule, a discount of one percent (1%) of the selling price.

(iii) *Maximum authorized service charges.*

Special service rendered	*Maximum authorized charge (cents per 100 lbs.)*
Carrying upstairs, in deliveries of 100 lbs. or more but not more than one ton, for each full flight of stairs above the ground floor	10
	Per net ton
Deliveries not within the meaning of "delivered to storage," as hereinafter defined, provided that there shall be no extra charge for deliveries to those premises to which delivery was made without extra charge prior to Jan. 1, 1942	$1

(2) *"Yard" sales.*

Size	At yards, etc., receiving via rail, per net ton, for sales of ½ ton or more	At yards, etc., receiving via water, per net ton, for sales of ½ ton or more	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$11.25	$11.00	$.80	$.09
Pea	9.70	9.45	.70	.08
Buckwheat	7.50	7.25		
Rice	6.65	6.40		
Barley	5.75	5.50		

(g) *Schedule IV, covering Eastern Queens.* Schedule IV establishes specific maximum prices for certain sizes of Pennsylvania anthracite, in certain specific quantities, delivered to or at any point within Zone IV. Zone IV embraces that part of the Borough of Queens not included in Zone III, and which is referred to herein as Eastern Queens and is defined in paragraph (q) (13) of this order.

(1) *Delivered sales*—(i) *Sales made on a "delivered to storage" basis.*

Size	Per net ton, for sales of more than ½ ton	½ ton	Per 100 lbs., for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$13.50	$7.00	$.90	$.10
Pea	11.95	6.25	.80	.09
Buckwheat	9.50	5.00		
	[1] 9.75	[1] 5.15		
Rice	8.65	4.60		
	[1] 8.90	[1] 4.75		
Barley	7.80	4.15		

[1] Rescreened.

(ii) *Required discounts.* There shall be deducted from the prices set forth in paragraph (1) (i) of this schedule, on sales and deliveries of all the sizes of Pennsylvania anthracite set forth therein, a discount of twenty-five cents (25¢) per net ton for cash on delivery; or a discount of one percent (1%) of the selling price for payment on or before the tenth day of the month immediately following the month during which delivery was made.

(iii) *Maximum authorized service charges.*

Special service rendered	*Maximum authorized charge (cents per 100 lbs.)*
Carrying upstairs, in deliveries of 100 lbs. or more but not more than one ton, for each full flight of stairs above the ground floor	10¢
	Per net ton
Deliveries not within the meaning of "delivered to storage," as hereinafter defined, provided that there shall be no extra charge for deliveries to those premises to which delivery was made without extra charge prior to Jan. 1, 1942	$1

(2) *"Yard" sales.*

Size	Per net ton, for sales of ½ ton or more	Per 100 lbs. for sales of 100 lbs. or more, but less than ½ ton	Per 10 lbs., for sales of less than 100 lbs.
Broken, egg, stove, nut	$11.50	$.80	$.09
Pea	9.95	.70	.08
Buckwheat	7.75		
Rice	6.90		
Barley	6.05		

(h) *Addition of railroad freight rate increase prohibited.* The specific maximum prices prescribed herein include the amount of the railroad freight rate increase incurred as a result of the Interstate Commerce Commission's order in its Docket Ex Parte 148, effective March 18, 1942, and such railroad freight rate increase may not be added to the specific maximum prices.

(i) *Addition of increases in suppliers' maximum prices prohibited.* The specific maximum prices established by this order may not be increased to reflect, in whole or in part, any subsequent increase to a dealer in his supplier's maximum price for the same fuel. The specific maximum prices already reflect increases to dealers in their suppliers' maximum prices occuring up to the effective date of this order. If increases in suppliers' maximum prices should occur after such date, as the result of any amendment to or revision of a maximum price regulation issued by the Office of Price Administration governing sales and deliveries made by such suppliers, the Regional Administrator will, if he then deems it to be warranted, take appropriate action to amend this order to reflect such increases.

(j) *Taxes.* A dealer subject to this order may collect, in addition to the specific maximum prices established herein, provided he states it separately, the amount of the Federal tax upon the transportation of property imposed by section 620 of the Revenue Act of 1942 actually paid or incurred by him, or an amount equal to the amount of such tax paid by any of his prior suppliers and separately stated and collected from the dealer by the supplier from whom he purchased. A retail dealer subject to this order may also collect, in addition to the specific maximum prices established herein, provided he states it separately, the amount of the New York City sales tax payable by such dealer.

(k) *Adjustable pricing.* A price may not be made adjustable to a maximum price which will be in effect at some time after delivery of the anthracite has been completed; but the price may be adjustable to the maximum price in effect at the time of delivery.

(l) *Petitions for amendment.* Any person seeking an amendment of any provision of this order may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1, except that the petition shall be filed in the New York Regional Office of the Office of Price Administration.

(m) *Applicability of other regulations.* Section 1499.15, *Registration*, and § 1499.16, *Licensing*, of the General Maximum Price Regulation shall apply to this order. No other provision of the General Maximum Price Regulation shall apply to this order.

(n) *Records.* Every dealer subject to this order shall preserve, keep, and make available for examination by the Office of Price Administration, the same records he was required to preserve and keep under § 1340.262 (a) and (b) of Revised Maximum Price Regulation No. 122.

(o) *Posting of maximum prices: sales slips and receipts.* (1) Every dealer subject to this order shall post all his maximum prices (as set forth in the applicable schedule or schedules of this

order) in his place of business in a manner plainly visible to and understandable by the purchasing public.

(2) Every dealer subject to this order shall, except in the case of Pennsylvania anthracite sold in bags in lots of one hundred pounds or less not exceeding a total of one-half ton, give each purchaser a sales slip or receipt showing the name and address of the dealer, the kind, size, and quantity of the solid fuel sold to him, the date of the sale or delivery and the price charged, separately stating the amount, if any, of the required discounts, the authorized service charges and the taxes, which must be deducted from, or which may be added to, the specific maximum prices prescribed herein.

In the case of sales of Pennsylvania anthracite in bags in lots of one hundred pounds or less not exceeding a total of one-half ton, every dealer subject to this order shall give each purchaser a sales slip or receipt containing the information described in the foregoing paragraph, if requesed by such purchaser or if such dealer during December, 1941, customarily gave purchasers such sales slips or receipts.

(p) *Enforcement.* (1) Persons violating any provision of this order are subject to the criminal penalties, civil and enforcement actions, and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended.

(2) Persons who have any evidence of any violation of this order are urged to communicate with the New York District Office of the Office of Price Administration.

(q) *Definitions and explanations.* When used in this Order No. 1 the term:

(1) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(2) "Sell" includes sell, supply, dispose, barter, exchange, lease, transfer, and deliver, and contracts and offers to do any of the foregoing. The terms "sale," "selling," "sold," "seller," "buy," "purchase," and "purchaser," shall be construed accordingly.

(3) "Dealer" means any person selling Pennsylvania anthracite of the sizes set forth in the schedules herein, or a person who sold Pennsylvania anthracite of such sizes subject to Revised Maximum Price Regulation No. 12, Solid Fuels Sold and Delivered By Dealers, or subject to Maximum Price Regulation No. 122, Solid Fuels Delivered From Facilities Other Than Producing Facilities—Dealers, and does not include a producer or distributor making sales at or from a mine, a preparation plant operated as an adjunct of any mine, or a briquette plant.

(4) "Distributor" means a person who purchases Pennsylvania anthracite at or for delivery from a mine or a preparation plant operated as an adjunct of any mine or briquette plant, for resale and resells the same in not less than cargo or railroad carload lots, without physically handling such anthracite, and any person acting as an agent of such distributor in the sale of Pennsylvania anthracite.

(5) "Sidewalk delivery" means delivery to the point nearest and most accessible to the buyer's place of storage, and at which the coal can be discharged directly from the seller's truck.

(6) "Delivered to storage" means delivery to the buyer's bin or storage space. The seller's truck shall be driven to the point nearest and most accessible to the bin or storage space designated by the buyer. If the distance to be traversed in delivering the coal from the truck to the bin or storage space is then no greater than 90 feet, and if the coal is moved by wheelbarrow or barrel and need be dumped no more than once after removal from the truck, no service charge may be made in connection with such delivery.

(7) "Yard" sales means delivery into the buyer's possession or custody at the yard, dock, barge, car, or at a place of business of the dealer other than at his truck or vehicle.

(8) "Single trim" refers in general to the movement of coal by shovel, usually performed to make room for more coal to be delivered, and effected by a downward movement of the shovel to make the coal slide.

(9) "Double trim" refers in general to the movement of coal by shovel from one place to another, effected by heaving, tossing or lifting the coal by shovel.

(10) "Regular labor" refers in general to the movement of coal by wheelbarrow or barrel.

(11) "Carry labor" refers in general to the labor involved in carrying coal in baskets from the truck to the bin or storage space.

(12) "Western Queens" refers to that part of the Borough of Queens, in the City of New York, lying generally west of the following boundary line: Starting at a point at the foot of Lefferts Boulevard, at Jamaica Bay; thence in a northerly direction along Lefferts Boulevard to the intersection of Lefferts Boulevard and Kew Gardens Road; thence in a northwesterly direction along Kew Gardens Road to the intersection of Kew Gardens Road, Queens Boulevard and Union Turnpike; thence in a northeasterly direction along Union Turnpike to the intersection of Union Turnpike and Francis Lewis Boulevard; thence in a northwesterly direction along Francis Lewis Boulevard to the intersection of Francis Lewis Boulevard and Willets Point Boulevard; thence northeasterly along Willets Point Boulevard to the Long Island Sound shore line. Premises on the eastern or southern side of the boulevards, roads and turnpike which form the boundary line separating Western Queens from Eastern Queens shall be deemed a part of Western Queens for the purposes of this order.

(13) "Eastern Queens" refers to that part of the Borough of Queens not included in Western Queens as herein defined.

(14) The sizes of Pennsylvania anthracite described as broken, egg, stove, nut, pea, buckwheat, rice and barley shall refer to the same sizes of anthracite as were sold and delivered in the Boroughs of Manhattan, Bronx, Brooklyn and Queens with such designation during December, 1941.

(r) *Right of amendment or revocation.* The Regional Administrator reserves the right at any time to amend, revoke or rescind this order, or any provision thereof.

(s) *Effect of order on Revised Maximum Price Regulation 122.* This order shall supersede Revised Maximum Price Regulation No. 122, except as to any sales or deliveries of solid fuels not specifically subect to this order.

(t) *Effective date.* This order shall become effective February 15, 1943.

Issued this 15th day of February 1943.

SYLVAN L. JOSEPH,
Regional Administrator.

[F. R. Doc. 43-2525; Filed, February 15, 1943; 4:44 p. m.]